

Office of the Electricity Ombudsman

(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act, 2003)

B-53, Paschimi Marg, Vasant Vihar, New Delhi – 110 057

(Phone No.: 32506011, Fax No.26141205)

Appeal No. F. ELECT/Ombudsman/2014/566

Appeal against the Order dated 03.05.2013 passed by CGRF–BYPL in Complaint No.48/02/13.

In the matter of:

Shri Puttan Khan - Appellant

Versus

M/s BSES- Yamuna Power Ltd. - Respondent

Present:-

Appellant: Shri Puttan Khan was present in person.

Respondent: Shri R. S. Bisht (Nodal Officer), Shri Anirudha Arya (DGM), Shri M. Meena (ASVP) & Shri Raghvender Sharma (AFO) attended on behalf of the BYPL.

Date of Hearing: 12.06.2013, 07.08.2013, 10.09.2013, 25.09.2013, 19.03.2014

Date of Order : 29.04.2014

ORDER/RECORD OF PROCEEDINGS NO. OMBUDSMAN/2014/566

An order was passed by the CGRF on 03.05.2013 in the matter of Shri Puttan Khan vs. BYPL rejecting the request of the Complainant for release of a new connection on the ground that the legal title to the premises is not clear and the Complainant was unable to furnish requisite documents for release of a new electrical connection as per ANNEXE I of DERC Supply Code and Performance Standards Regulations, 2007.

32

The Complainant filed a hand written appeal on 15.05.2013 requesting for a hearing on the release of the connection denied by the CGRF and the DISCOM.

A hearing was held in the matter on 12.06.2013 and the discussion with the DISCOM revealed that with the DISCOM file itself showing the appellant in occupation since 2008 the DISCOM cannot refuse the connection to an "occupier" under Section 43 (i) of the Electricity Act, 2003. This fact of occupation was confirmed during the hearing. Since the status of the Appellant as occupier is confirmed by the records of the DISCOM itself since 2008, no further proof appeared necessary. As a result of the discussion, the DISCOM was asked to either release the connection after obtaining an appropriate Indemnity Bond/safeguard/affidavit within a week or to file a proper legal reply why Section 43 is not being observed by them due to their refusal to release the connection so that specific orders can be passed.

Subsequent to this hearing, the DISCOM filed a reply on 19.06.2013 arguing that the word "occupier" is not defined in the Electricity Act, 2003 and that the documents required under ANNEXE I of the Regulation, 2007 indicate that a possession letter or rent receipt or GPA or lease agreement would have to be put forward to establish the occupier's claim. They also mentioned that the occupancy should be legal and not an encroachment or that of a trespasser. They also relied upon explanation of Section 43 (i) that the application to be submitted has to be completed in all respects and that this require coverage of the requirements of ANNEXE I of the DERC Regulations, 2007. Apart from this, they also raised the issue of the premises reportedly being a Jhuggi/temporary structure and Regulation 13 of the Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulation 2010 would make it difficult to safely give an electricity connection. They also mentioned that there is a dispute about the ownership of the area in which the Jhuggi is located involving one Smt. Bharti Devi.



After filing of the above reply another hearing was held on 07.08.2013 where an order was recorded on file as follows:

"Hearing held. BYPL files a reply providing details of the provisions of the Supply Code relating to this case and also giving some reasons for non-release of connection. The main points are again covered by them including requirements of documents for obtaining a connection and they confirm that the Appellant has ID relating to Election Card, Passport, Ration Card, Driving License, Aaddhaar Card and birth/death documentation of family members proving he is in occupation/possession of the property.

The representative of BYPL still insists that ownership has to be proved as there is a dispute between Ms. Bharti Devi and the Appellant over this property. The details of the dispute provided relate to case No.:RC/ARC E 35 of 2011 between Bharti Devi and one Aas Mohammed with the same property no. as involved in this case viz;B-182, Block – 16, Khureji Khas, Geeta Colony, Delhi – 110031. Since the name of the Appellant is Puttan Khan and not Aas Mohammed, it is not clear whether this case even pertains to present property or not, except that the address is said to be same. The representative of the BYPL insists that no connection can be released till a NOC is issued by the owner of the property. It is pointed out to the BYPL, that in this case, there is no landlord or owner of the property as the matter is said to be in dispute. Both sides have yet to establish this fact. The only established fact, as per records of the BYPL files, is that Shri Puttan Khan is in possession of this property since 2008, when he first applied for the electricity connection and that his possession is undisputed until now. Since there are many judgements of the High Court/Supreme Court allowing release of connections to "occupier" they were asked whether they could release this connection on the basis of Indemnity Bond/Affidavit as has recently been done by the TPDDL. It is also confirmed that even in States where distribution of electricity is with the Government similar Indemnity

(5)

Bonds/Affidavits were taken whenever there is dispute between landlord or tenants so that the essential facility of electricity is not denied.

BYPL's representative will seek clarification from senior management and revert back to this office, in writing, by 21.08.2013.

Put up file on 22.08.2013 alongwith reply of BYPL for further action.

Sd/-

07.08.2013

(Ombudsman)"

Subsequently, on 21.08.2013 the BYPL indicated their decision to supply electricity to the Appellant, and all other individuals of the same area, on the basis of either Ration or Electoral ID Card as documentary evidence basing this decision on the discussion in this office during the hearing above. The text of their letter is as follows:

"Most respectfully showeth;

That the licensee has taken care the problems being faced by the appellant in the light of discussion held in the office of Ombudsman and accordingly ready to provide regular electricity connection to appellant and all other individuals of the same area on the basis of either ration card or electoral identity card as documentary evidence treating as address proof for the release of electricity connection.

That the hereinabove mentioned release of new connection is subject to:

- a) That appellant/ applicant will provide indemnity bond stating that release of connection will not confer his right of ownership over property and appellant will indemnify the licensee in future in case of any dispute due to release of this connection.*



- (43)
- b) That the appellant/ applicant will provide affidavit stating that in case of dispute licensee will have the right to disconnect the connection without any further notice to the appellant/ complainant moreover there is no case pending in any court for ownership/ possession of the property where connection is demanded.
- c) That appellant/ applicant will make sure that regulation 13 & 31 of the Central Electricity Authority (measure relating to Safety and Electric Supply) Regulation 2010 must be complied.

In view of the above facts and circumstances it is most humbly prayed that as present grievance of the appellant has already been redressed therefore appeal may please be dismissed.

Delhi
Dated: 21/08/2013

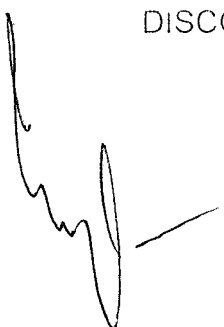
Sd/-
(Madan Meena)
As. V.P. (F.D) KRN
BSES-YPL"

This office was later informed through e-mail on 22.10.2013 that the electricity meter had been installed on 17.10.2013 and closure of the case was requested. The case was ordered to be closed on 25.10.2013.

On 01.01.2014, a letter was received from one Smt. Bharti Sharma asking for copies of relevant information about our rulings, including papers submitted by the consumer concerned and BSES on the matter so as to consider the same at the appropriate forum. A letter was also received on 09.01.2014 from one Shri S. K. Gaur of 26, FF, Jaipuria Enclave, Kaushambi, Ghaziabad – 201010, Uttar Pradesh, asking for 21 items for information under the RTI Act, 2005. Another e-mail was received from Smt. Bharti Sharma on 16.01.2014 to meet with the Ombudsman and an appointment was given on 27.01.2014. On that date, a letter was received from

Smt. Bharti Sharma that she is not able to come as she is unwell and one Shri Mukesh Sharma was nominated to attend which he did. Prior to this, Smt. Bharti Sharma made a complaint on 28.12.2013 to the Delhi Electricity Regulatory Commission that she, being one of the owners was not being involved in the process by the BSES and the Electricity Ombudsman, especially when she was a party in the proceedings before the CGRF and that she had informed the Ombudsman in writing that she was willing to go ahead with the existing law in the matter and wanted copies of all the relevant documents including the site plan and photographs etc.. This complaint of 28.12.2013 to the DERC was made prior to the letter sent to this office on 01.01.2014 and was forwarded to us by the DERC on 16.01.2014 seeking comments. Subsequently, Shri Mukesh Sharma came to this office on 27.01.2014 and then on 05.03.2014.

He, and his legal representative, were allowed to go through all the papers and he was informed that though the order of the CGRF did mention that Mrs. Bharti Devi was to be made a party there appears to have been no further action. He was asked to give a request to reopen the proceedings and told that the DISCOM can be apprised of the position so that their records can be corrected. No such letter was given. A fresh date of hearing was, however, fixed on 19th March, 2014 to hear the matter and assist them, if possible. A letter was received on 11.03.2014 from Smt. Bharti Sharma that all documents including rulings, notings, correspondence etc. may be provided to her prior to the date of hearing on 19.03.2014 or she will not be able to attend the hearing. Once proceedings were joined and clarifications obtained documents would have become available. No one, however, appeared on behalf of Smt. Bharti Sharma on 19.03.2014. On 19.03.2014, it was recorded that no one was present from Smt. Bharti Sharma and the hearing could not be held. The DISCOM was, however, asked to suo-moto look into the matter and send a report in a month or so. In any case, this office is not authorised to decide the relative ownership rights of parties and at best would have brought this to the attention of the DISCOM which has been done in any case. The DISCOM then informed us, by e-mail, on 23.04.2014 as follows:



-
4. That it is submitted before the Hon'ble Electricity Ombudsman that neither Sh. Bharti Devi nor any authorized representative of Sh. Bharti Devi attended the arranged meeting till date with the ownership documents of the subjected premises. Therefore, the name change process could not be entertained by the Respondent Company.
 5. That the Respondent Company further leave crave to the Hon'ble Ombudsman for further necessary orders or directions.

Delhi

Dated:

Respondent Company

Through

Mukesh Kumar Tyagi
(Dy General Manager, Krishna Nagar, BYPL)"

The position in the matter remains that the case has been closed as the DISCOM has suo moto released the connection. Needless to say that the Hon'ble High Court of Calcutta in AIR-2011-Cal-64 had allowed an electricity connection even in the favour of a trespasser. (Smt.) Bharti Sharma is always at liberty to approach the concerned Civil Court to assert her civil rights, including for disconnection of electricity connection, eviction of alleged unauthorized person etc., if so advised. This Order/record of proceedings is issued to place all facts of the case on record. Copy of this be sent to Smt. Bharti Devi for appropriate action, if any, by her.


(PRADEEP SINGH)
Ombudsman

29/4 April, 2014

