

## **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**

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### **Appeal No. F. ELECT/Ombudsman/2015/638**

Appeal against the Order dated 24.06.2014 passed by the CGRF–TPDDL in CG.No.5730/02/14/SMB.

In the matter of:

Shri Sidharth - Appellant

Versus

M/s Tata Power Delhi Distribution Ltd. - Respondent

Present:-

Appellant: Shri H. B. Jha, advocate, attended on behalf of the appellant.

Respondent: Shri Vivek, Sr. Manager (Legal), Shri Ashish Barthwal, RRG - Officer, attended on behalf of the TPDDL.

Date of Hearing : 18.02.2015

Date of Order : 10.04.2015

### **ORDER NO. OMBUDSMAN/2015/638**

This appeal has been filed by Shri Sidharth, son of Shri Jagmal Singh, R/o H. No.286, Haiderpur Village, New Delhi – 110088, against the order of Consumer Grievance Redressal Forum – Tata Power Delhi Distribution Ltd. (CGRF-TPDDL) dated 24.06.2014 in which his request for deletion of amount transferred on his connection by the DISCOM was declined.

The case was filed by the complainant before the CGRF stating that the DISCOM has wrongly transferred an amount in the month of January 2014 to

the tune of Rs.12,65,841/- to his electricity connection bearing C.A. No.60012923110.

The DISCOM has filed its reply before the CGRF stating that the amount was transferred under Clause 49 (ii) of DERC Supply Code and Performance Standards Regulations, 2007 from a disconnected connection bearing CA No. 60008454013 (K . No. 45300143661) to the live connection bearing CA No. 60012923110 because the electricity was being supplied to the disconnected connection from the live connection pertaining to the complainant. It had filed copies of 3 inspection reports and one alleged show cause notice.

The CGRF has found the contention of the DISCOM correct but ordered that only an amount of Rs.5,11,850/-, out of the total transferred amount of Rs.12,65,841/-, along with current demand of Rs.71,116/- can be charged from the complainant because the initial transferred amount was inclusive of current demand and LPSC etc. which need not figure in this.

Now the complainant has preferred the present appeal in which he asserts the amount was transferred without any show cause notice. He also objected that the CGRF has ordered recovery from him without first finding the initial and final reading from the meter.

The DISCOM has opposed the appeal asserting that the amount was transferred after proper show cause notice.

Both the parties were heard on 18.02.2015 and record was perused. Both parties wanted time to settle the matter. This could not come about and the case was reserved for orders.

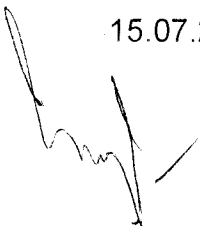
Firstly, the DISCOM is not clear as to under which clause of the Regulation they are demanding the amount. The language in the alleged show cause notice dated 08.11.2013 reveals the amount as pertaining to the premises under Clause 15 which, therefore, makes it payable. If Clause 15 of the Regulation is used to claim the amount it only bars energization of a new

connection for non-payment. In the present case there is no request from the complainant to get a new connection.

The DISCOM asserted that the amount was transferred under Clause 49 (ii). A bare reading of this Clause shows that the following conditions must be fulfilled before transferring the dues under this Clause:-

1. Inspection by the DISCOM showing that the supply of electricity was being done from a live connection to some other dead connection.
2. Show cause notice to a consumer and proper service of it to stop the supply.
3. Re-inspection by the DISCOM showing stoppage/non-stoppage of such supply.

It is unfortunate that although as many as three inspection reports are available on the CGRF file none of them qualify the test mentioned above. These reports appear to be prepared by some inadequately trained person. There is no sequence in the reports. For example, a report placed at page no.41-42/c of the CGRF file is undated and simply mentions that some MTR has been disconnected and some K. No.60001412240 is existing (at the premises). There is no mention of name and address of the DISCOM on this report. Nothing can be brought out from this report in favour of the DISCOM. The second report available at page no. 39-40/c of CGRF file is dated 20.06.2013. This is regarding a different CA No. 60008454013 and speaks about the meter of the RC (Registered Consumer) having been disconnected and electricity being supplied through K. No. 45604290267. Even this K. No. does not tally with the K. Nos. mentioned by the CGRF in its order, from which the electricity was allegedly being supplied. In this report, there is no mention of the designation of the person who had prepared this report. Therefore, this report cannot be used to establish a link with the connection of the appellant. The third report available at page no. 37-38/c of the CGRF file is dated 15.07.2013 and pertains to CA No.60008454013. The only fact mentioned in



this report is that the occupant of the house had not allowed the electricity meter to be seen. No inference can be drawn from this report in favour of the DISCOM.

There is yet another alleged inspection report dated 21.05.2013 on the file of this office in which it is shown that electricity is being supplied to disconnected K. No.45300143611 from the live connection bearing K. No.45300135540. Although this report has some details/substance but there is no designation of the person who had made the inspection. Further, the columns relating to '**witness**' and '**approved by**' have been left blank. Therefore, this report cannot be accepted as absolute. The alleged show cause notice dated 08.11.2013 available at page no. 43/c of the CGRF file does not mention that any inspection report was made or any warning issued to the consumer to stop the supply from the live connection to the disconnected connection, failing which the amount would be liable to be transferred under Clause 49(ii). The DISCOM has also not filed any registered postal receipt regarding service of this notice on the consumer. The DISCOM has submitted that the appellant herein cannot accept or deny the show cause notice as it was issued to the registered consumer (Sh. Jagmal Singh). The contention of the DISCOM could have been looked into if it had filed the copy of the registered postal receipt. It had to discharge the preliminary burden of service of notice which has not been done. There is no re-inspection report after this alleged notice so in the above circumstances no amount can be transferred under Clause 49(ii) of DERC Regulations 2007. Instead the DISCOM has filed one intimation letter dated 19.08.2013 regarding transfer of dues on the file of this office. This intimation letter is of no consequences because this could have been looked into only if the DISCOM had carried out a proper inspection, sent a registered notice and conducted a proper re-inspection in this regard.

It is notable that the DERC summary procedure as in the DERC Supply Code Performance and Standards Regulations, 2007 for recovery of dues can

be used by the DISCOM by considering electricity as an essential service but to avail the benefit of these Regulations, it is essential that the DISCOM should follow the Regulations in letter and spirit. No arbitrary action on the part of the DISCOM can be correct in law. This view about transfer of dues under Clause 49(ii) also finds support in the dictum by Hon'ble Delhi High Court in W.P.(C) No. 6812/2008 (Sh. Harpal Singh Vs. NDPL) in which the DISCOM has miserably failed.

However, the DISCOM is always at liberty to initiate fresh proceedings as per regulation mentioned above if it finds that the appellant is supplying electricity from live connection to the area of the disconnected connection in future. The DISCOM can even recover its dues by way of civil recovery proceedings if so advised.

It is, therefore, ordered that the DISCOM shall not charge the amount transferred to the tune of Rs.5,11,850/- and current dues of Rs.71,116/- as ordered by the CGRF. Normally, the CGRF would not issue any orders on current dues but only regarding disputed amounts. It is understood the disputed amount is now higher than the amount indicated by the CGRF and the entire transferred amount is ordered to be removed including any LPSC calculated thereon. Current dues are separately to be billed by the DISCOM and are not part of this dispute.

The appeal is disposed off as above.

  
(PRADEEP SINGH)  
Ombudsman



April, 2015