

Office of the Electricity Ombudsman

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

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Appeal No. F. ELECT/Ombudsman/2015/646

Appeal against the Order dated 04.08.2014 passed by CGRF–
BRPL in CG.No.227/2014.

In the matter of:

Shri Shankar Das Falwaria - Appellant

Versus

M/s BSES Rajdhani Power Ltd. - Respondent

Present:-

Appellant: Shri Shankar Das Falwaria did not attend the hearing.

Respondent: Shri Sudhir Jairath, DGM (B) JKP, Shri Prashant Saxena (Nodal Officer) Shri Ranjeet Kumar (Legal Retainer), attended on behalf of the BRPL.

Date of Hearing : 25.11.2014, 02.12.2014, 13.01.2015

Date of Order : 04.02.2015

ORDER NO. OMBUDSMAN/2015/646

This is an appeal filed by Shri Shankar Das Falwaria of 25/3, Ashok Nagar, New Delhi – 110018, against the order of the Consumer Grievance Redressal Forum (CGRF) dated 04.08.2014, in which his request for removal of electricity connections to three persons viz. Smt. Rajni Kalra, Shri Manoj Kumar and Shri Raj Kumar Chawla, was not accepted on the ground that the matter is a property dispute as the complainant has alleged that some people have illegally encroached his premises and he wants to take back the possession. He wanted that legal action should be taken against these persons doing the illegal encroachment. The CGRF noted that the above alleged illegal

possession has led to a criminal complaint which is pending in the court of Shri Dhirender Rana, Tis Hazari Court.

The matter was heard on 25.11.2014. The three persons named above viz. Smt. Rajni Kalra, Shri Manoj Kumar and Shri Raj Kumar Chawla were also called for the hearing but did not attend. The DISCOM had been asked to clarify how they were able to overcome the requirement of the NOC (No Objection Certificate) from the landlord and asked for details of the documents relied upon by them. As these had not been supplied on the hearing held on 25.11.2014, the DISCOM was asked to supply them by 01.12.2014. Rs.1,000/- was awarded to the complainant due to the delay that occurred on the DISCOM's part. Another hearing was held on 02.12.2014 and the copies of the documents given by the DISCOM were supplied to the complainant who wanted time to file a written reply. Subsequent to this, the complainant has started asking for copies of the notations on file which are not relevant to the purpose of further hearing/passing of orders for which the matter had been reserved on 02.12.2014 and he has not yet filed any reply. Further, to give him yet another opportunity, a hearing was again fixed on 13.01.2015 but the complainant did not attend. The matter is, therefore, being examined on the basis of the material on record.

It is seen that the complaint which has been filed in the court of Chief Metropolitan Magistrate, Tis Hazari Courts, is under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. This complaint is filed against many persons, one of whom is listed as having an electricity connection in the CGRF's orders viz. Shri Manoj Kumar. It is possible that there is a dispute between the complainant and Shri Manoj Kumar on the issue of ownership which led to this complaint being filed. It does not appear appropriate for the CGRF to have closed the matter solely on the basis of a criminal complaint under the SC/ST Act pending in the Tis Hazari Court even

though the criminal complaint seems to show the existence of some property dispute. What is more relevant here is the issue of electricity connections.

The CGRF should have satisfied itself that the documents the DISCOM relied upon were adequate for the purpose without going into issue of the criminal complaint. The DISCOM was asked to clarify what documents they had relied upon while giving these connections. They have claimed that in the case of Shri Raj Kumar Chawla there appears to be a General Power of Attorney (GPA). Smt. Rajni Chawla (mentioned as Rajni Kalra by the CGRF) is stated in the DISCOM's reply to be the wife of Shri Raj Kumar Chawla and Shri Manoj Kumar also appears to be related to them. It further appears that the GPA may have some relation with the earlier occupant Shri Ashok Kumar who has been in the premises since 1999. It is possible that Shri Ashok Kumar may have sold certain portions to the people now in possession and who are being proceeded against by Shri Shankar Das Falwaria. The matters are, therefore, not very clear as to who was earliest in possession of the building and how the others came to derive their occupation either as tenants or purchasers.

The CGRF should have looked into the sequence of events and come to a conclusion on merit regarding the validity of the BSES decision to accept the documents provided to them without dismissing the matter out of hand on the ground of a criminal proceeding being pending.

The issue is not that there may not be a property dispute, which may well be the case, but that the correctness of the electricity connections issued as well as the correctness of the documents relied upon should have been gone into by the CGRF. If it was found that Shri Shankar Das Falwaria was a stranger to the matter/to the building the case could have been dismissed on that basis. If it was found that Shri Shankar Das Falwaria had some connection with the property in the past but the documents used by the occupant to obtain

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an electricity connections were valid, again the matter could have been dismissed by the CGRF. In the present circumstances, it is not clear from the documents available in the files whether the actions of the DISCOM were correct in themselves or not and hence the order of the CGRF dismissing the matter on the ground of a criminal complaint under the SC/ST Act alone is set-aside and they are asked to look into the issues on merits before taking a final view. Needless to say appellant herein has to prove his landlord – tenant relationship by way of rent deed etc. with the persons he is claiming required his NOC while issuing the connection. In no other case would NOC need to be asked by the DISCOM.

Appeal is accepted and the order of the CGRF is set aside. Case is remanded to the CGRF for a hearing on merits. Rs.1,000/- will be paid by the DISCOM to the complainant.


(PRADEEP SINGH)
Ombudsman

4th February, 2015