

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. 728/2016

IN THE MATTER OF:

Shri Brijesh Kathuria - Appellant

Versus

M/s Tata Power Distribution Delhi Ltd. - Respondent

(Appeal against Order dated 14.08.2015 passed by CGRF-TPDDL in CG No. 6603/05/15/PPR)

Present:-

Appellant : Shri Brijesh Kathuria, in person.

Respondent : Shri Vivek, Senior Manager (Legal) and Shri Anirudh Sinha, Executive on behalf of the TPDDL

Date of Hearing : 22.06.2016

Date of Order : 27.06.2016

FINAL ORDER

1. Appeal No. 728/2016 has been filed by Shri Brijesh Kathuria, R/o WZ-1046, First Floor, Rani Bagh, Delhi – 110034 against the CGRF-TPDDL's order dated 14.08.2015 in CG No. 6603/05/15/PPR. Hearing held today with both parties present.
2. The dispute, in brief, pertains to the denial by the Discom of a new, non-domestic connection for the first floor of the premises to the appellant, Shri Brijesh Kathuria, on the ground that there are dues pending against one Shri Avinash in whose name a connection existed earlier on the same floor at the same premises.

Brijesh




3. While reducing the quantum of the arrears payable after a scrutiny of the records, the CGRF (TPDDL) had upheld the contention of the Discom that a connection in the name of Shri Avinash did exist on the first floor and that the outstanding amount was payable by the appellant before his application for a fresh connection on the same floor could be sanctioned by the Discom. The appellant has preferred an appeal against this order of the CGRF.
4. The appellant has denied the existence of any electric connection in the name of Shri Avinash on the first floor, claiming that its roof rights had been sold to Shri Avinash in 1998 and that the latter had constructed a second floor and obtained a connection for it by mentioning the address of first floor instead. This connection was released and subsequently disconnected from the second floor. The disputed amount pending for payment relates to this connection. The appellant, further, stated that a domestic connection already exists on the first floor and that he had applied for a non-domestic connection on this floor after partitioning of the floor area, an application which has been declined by the Discom.
5. The Discom (the Respondent), in turn, have stated in their response that they had released a connection in favour of Shri Avinash for the first floor after he had submitted a sworn affidavit to the effect that he is the lawful occupier of the first floor. They further stated that the appellant has so far failed to submit a copy of the GPA/Sale Deed of the roof rights of first floor in favour of Shri Avinash to establish his legal position as claimed by him in his appeal, thereby making him liable to pay the outstanding amount before a new connection can be released to him, a position upheld by the CGRF.
6. On being specifically queried, however, the Discom could not offer an adequate explanation as to why they had released a domestic connection earlier in the first place without having the outstanding dues, if any, cleared first. Nevertheless, they were not averse to the release of the new connection sought by the appellant if he could produce a copy of the GPA/Sale Deed which establishes the roof rights of the first floor in favour of Shri Avinash. In response, the appellant said that he has already applied for a copy of the GPA/Sale Deed with the concerned authority which had not yet materialized and that more time was needed to obtain it.
7. Having heard the arguments of both parties and studied the documentation on record, it is clear that a domestic connection already exists on the first floor and for which the appellant has sought a fresh, non-domestic connection, having applied for it more than a year ago on 13.03.2015. His application has remained pending on account of outstanding dues which the

Shri Avinash



Discom says is payable by him first. At the same time, the Discom (the Respondent) is not disinclined to release the connection applied for by the appellant if the latter can produce a copy of the GPA/Sale Deed of the transfer of roof rights of the first floor to Shri Avinash.

- 8. After a careful consideration of the case, I am of the opinion that the ends of justice will be met with fairness to both parties if the connection applied for by the appellant is released by the Discom on the basis of a sworn affidavit to be furnished by the appellant to the effect that he has sold the roof rights to Shri Avinash as claimed by him that that he will provide a copy of the GPA/Sale Deed in support of his contention within a reasonable time frame to the Discom for their scrutiny and record. This shall not, in any way, compromise or curtail the rights of the Discom to recover their legitimate dues from the actual defaulter.


 **(Sundaram Krishna)**
Ombudsman
27.06.2016