

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-cum-Fax No.: 011-26141205)

Appeal No.769/2017

IN THE MATTER OF:

Shri Madhur Vig - Appellant

Vs.

M/s BSES Rajdhani Power Ltd. – Respondent

(Appeal against order dated 28.11.2016 passed by CGRF- BRPL in CG No. 67/2016)

Present:

Appellant: Shri Ashok Vig, father of Shri Madhur Vig

Respondent: Shri Piyush Agarwal, DGM (Legal), Shri Anuj Mathur, Manager (Legal), Shri Prashant Saxena, Manager with Advocate Shri Deepak Pathak on behalf of BSES -BRPL

Date of Hearing: 17.02.2017

Date of Order: 27.02.2017

ORDER

1. Appeal No. 769/2017 has been filed by Shri Madhur Vig, s/o Shri Ashok Kumar Vig, r/o 74, D-Block, 1st Floor, Devdoot Apartments, Vikaspuri, near Kamal Public School, New Delhi – 110018, against CGRF-BRPL's order of 28.11.2016 in CG No. 67/2016.

2. The brief facts of the case are that the Appellant applied for a new connection in his name for a sub-divided portion of his father's residential DDA flat which was declined by the Discom (Respondent) on the ground that there is already an existing connection to the premises. The Appellant's argument is that the flat in question is not a single dwelling unit but has been sub-divided into two with each section containing a separate living room, bathroom and a kitchen (each of which has obtained an independent domestic gas connection) and where two independent families are residing. In support of his contentions, the Appellant has argued that a number of other flats have been converted into multi-storeys and independent premises to whom the Discom has provided electricity connections. He has further argued that even in slum areas and refugee camps, structures set up by families living




in them are treated as independent dwelling units / premises for the purposes of provision of electricity connections.

3. The Discom's counter is that the Appellant's home is a DDA SFS flat and a single dwelling unit where there is already an existing connection and that a second connection to the same premises cannot be granted. In support of their position, the Discom has placed reliance on the DERC's Supply Code & Performance Standards Regulations, 2007 wherein the term "premises" has been defined as land or building or part or combination thereof in respect of which a separate meter or metering arrangements have been made. According to them, it is only in the case of subdivision of the premises that Regulation 15 (iii) of the Code provides for the grant of a connection in addition to an existing one and that, further, Regulation 57 (vi), which provides for the procedure to be followed for booking a case for unauthorised use of electricity, inter-alia specifies that two or more connections shall not be clubbed together unless it is proved that the connections are being used to serve/supply the same establishment. Furthermore, Regulation 2(zk) which defines the expression "premises" for the purpose of the Regulations as a "land or building or a part or combination thereof in respect of which a separate meter or metering arrangements have been made by the Licensee for the supply of electricity". The Discom has also drawn attention to Item 10.3 of the Handbook of Commercial Practices (1992) issued by the erstwhile Delhi Electric Supply Undertaking which provided that for the grant of separate connections in a building, "the basic criteria shall be that the portion is a distinctly separate, independent dwelling unit".

4. The Discom's basic position, thus, is that the Appellant's DDA flat is a single residential unit and the Appellant has to establish that the flat has been legally subdivided in terms of applicable laws and meets the prescriptions of the Delhi Municipal Corporation Act, 1957. Furthermore, it has to be ensured that there is no intermixing of load or sharing of the electricity supplied and that the electricity connection is required for a distinctly separate, independent dwelling unit. In the present case, therefore, another connection cannot be sanctioned since the Appellant's flat already has a connection and that the Appellant seems to be demanding a separate connection with the motive of obtaining the benefit of differential slab rates under which consumption up to a certain level is entitled to a subsidised tariff level under present government policy. The Discom has further argued that the grant of additional connections to single flats will have wide ramifications as consumers could potentially divide and further sub-divide their flats into smaller units and demand independent connections to derive undue benefit from differential tariff rates. The Discom has stated that they have addressed the Delhi Electricity Regulatory Commission seeking policy guidance/clarifications in the matter and that the Appellant's case would have to be dealt with in accordance with such guidance as and when received from the DERC. The Appellant, however, is at liberty to install a sub-meter if he so desires.

5. I have heard both the parties and gone through the material on record. The basic issue reduces to one of whether it is permissible to grant a second electricity connection to a residential flat which already has a prior connection. The associated question, on which an answer would depend, is whether such a single flat, which is claimed to have been subdivided into smaller, independent dwelling units, can be treated as eligible for independent electricity connections to each sub-unit.




6. In his extended written arguments as also during the hearing, the Appellant's single focus has been on establishing that there is no legal provision or law under which he can be refused a connection and the Regulations governing the release of connections (Nos. 15 & 16) are mandatory in nature. He has further dwelt at length on the interpretations of various provisions, arguing that none of them can be employed to block his request and that he has met every legal requirement. In dealing with such cases, however, one has to move beyond the semantics of specific expressions and phrases and try to understand the underlying logic behind their use. It is clear from an examination of the case that the intention behind Regulations is that an electricity connection is to be granted to a distinctly separate, independent dwelling unit. This definition, by all common rules of logic, can only refer to a dwelling or residential unit which constitutes a unitary whole in architectural or structural terms. And, by extension, if such a unit is to be capable of being subdivided further into small units, it only stands to reason that each sub-unit be capable of the treated as a physically and structurally distinct sub-unit with, inter alia, independent ingress and egress facilities.

7. I have considered these issues at length and see no reason to differ with the conclusion of the CGRF-BRPL that the Appellant's residential flat is an architecturally and physically single dwelling unit where more than one family can reside but which cannot be amenable to the creation of physically distinct and independent sub-dwelling units within it, thereby rendering it eligible for independent electricity connections. The Appellant's arguments amount more to legal hair splitting and establishing what he feels is his inalienable right to demand and obtain another connection rather than establishing beyond doubt just how his flat is entitled to independent connections when the objective of regulations governing the grant of electricity connections is to facilitate each distinct dwelling unit and the family residing therein to just one connection. The Appellant's argument that electricity is an essential requirement of every family is out of context as his flat already has a connection.

8. Regarding the issue of subsidy, the Appellant may be right in saying that his legal right to it cannot be taken away and that the Discom cannot use it as a ground for denying him a connection. This subject has been touched upon by the CGRF and while it may certainly be correct that a motive cannot and should not be attributed arbitrarily, it cannot but escape even a casual observer's notice that the precise end effect of the grant of more than one independent connection to a physically single dwelling unit can only be the benefit of subsidised differential tariffs accruing to each and every beneficiary residing therein who has managed to avail of such a connection. This is an issue which impacts the provision of every utility where subsidies are involved. It would not be out of context to note here that even the Ministry of Petroleum & Natural Gas (MOPNG) has deemed it fit to issue orders (available on its website) permitting only one LPG connection to one household on the ground that this restriction is necessary because LPG is a subsidised product and an unrestricted number of connections may lead to unauthorized use of subsidized LPG. Accordingly, multiple connections are not allowed in a single household. Clearly, there is an underlying logic behind such policy directions which cannot be denied. As to the Appellant's argument that he has obtained a second domestic gas

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connection, it is not within the remit of this court to go into how that connection was obtained as it concerns an entirely different utility provider who has to exercise whatever checks and balances are prescribed for him as correctly observed by the CGRF. The mere presence of a second gas connection does not automatically translate into an inalienable entitlement to a second independent electricity connection as well.

9. In summary, my considered conclusion is that the Appellant's arguments amount more to technical hair splitting rather than establishing beyond doubt as to just how he is legally entitled to second, independent connection and its corollary, i.e. why the Appellant's purposes cannot be served by the electricity connection which is already in existence. Incidentally, the Discom has already made a reference to the DERC on 02.11.2016 seeking policy clarifications/guidance on the subject of the grant of additional electricity connections to single dwelling units which have been sub-divided between parents and their children and where an electricity connection already exists. This has been done in view of the possible ramifications and cascading effects which the grant of such demands could generate. It would, therefore, be appropriate to await these policy guidelines before acting on similar representations from consumers. In the meantime, the Appellant can always segregate his own electricity consumption from that of his father's for the purposes of billing through the option of installing a sub-meter, a choice which is entirely up to him to exercise.

10. Against the above background, I hold that the CGRF-BRPL has been correct in upholding the Discom's position that the Appellant's residential DDA flat is a physically distinct single dwelling unit for all practical purposes and that another independent connection cannot be sanctioned to it in addition to the existing one. No intervention with the verdict of the CGRF-BRPL is, accordingly, called for.

The appeal stands disposed off accordingly.



(Sundaram Krishna)
Ombudsman
27.02.2017