

OFFICE OF THE ELECTRICITY OMBUDSMAN

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

B-53, Paschimi Marg, Vasant Vihar, New Delhi-110057

(Phone – cum – Fax No.011-26141205)

Representation No. 35/2018

(Against the CGRF-BRPL's order dated 27.09.2018 in CG. No. 145/2017)

IN THE MATTER OF

**SHRI PARDEEP GOYAL
(On behalf of Mayur Educational School)**

Vs.

BSES RAJDHANI POWER LTD.

Present:

Appellant :

Shri Pardeep Goyal, the applicant, on behalf of Mayur Educational School, was present alongwith Shri Mohan Lal, advocate, on the first hearing. On subsequent hearings, Shri Mohan Lal, advocate, on behalf of applicant, was present .

Respondent:

Shri Vikram Narula, (DGM - B), Shri Prashant Saxena (Sr. Manager) and Shri Bhupendra Singh, (Commercial Officer) on behalf of BRPL.

Date of Hearing: 05.12.2018, 27.12.2018 & 28.12.2018

Date of Order: 28.12.2018

FINAL ORDER

1. A representation No.35/3018 has been filed by Shri Pardeep Goyal, Authorized Representative and Secretary of M/s Mayur Educational School (Regd. Consumer of CA No.100146789), Block A-3, Paschim Vihar, New Delhi – 110063. The instant case came up for final hearing today, i.e. 28.12.2018. Shri Mohan Lal, Advocate, appeared on behalf of applicant/Mayur Educational School. Shri Prashant Saxena (Sr. Officer) and Shri Bhupendra Singh (Commercial Officer) appeared on behalf of BRPL.

2. Heard both the parties on 05.12.2018. Shri Pardeep Goyal, the applicant, was present in person alongwith his Counsel, Shri Mohan Lal. The facts in brief leading to the case is that a meter No.990445 was installed in the applicant's school (Mayur Educational School) at the time of release of connection. The meter was allegedly lost in the system and was thereafter found supplying electricity during inspection on 16.03.2017. The records reveal that the electricity connection for the school was last billed on 15.11.2003 upto meter reading 29665. Interestingly, the Respondent did not

issue any bill between 15.11.2003 and March, 2017. The applicant's school neither paid nor asked to issue bill of electricity consumed during the period from November, 2003 to March, 2017. Subsequently, a bill of Rs.17,30,870/- was issued for CA No.100146789 (after more than 13 years) to the applicant on 21.03.2017 for the entire period of 15.11.2003 to 16.03.2017. The said bill was raised on the basis of inspection carried out by the Respondent on 16.03.2017. Thereafter, the appellant approached the CGRF on 05.12.2017 praying for direction to respondent to withdraw the bill for Rs.17,30,870/- dated 21.03.2017 and to issue the bill for 3600 units with adjustment of Rs.40,000/- which is already paid by him. His plea is that in view of the provision under Limitation Act, 1963 and Section 56 (2) of the Electricity Act, 2003, the portion of the bill is time barred.

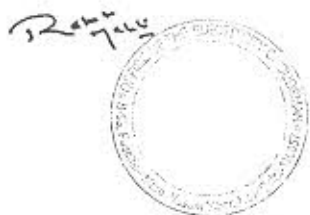
3. The Discom (Respondent) stated before the CGRF that a connection meter no. 990445 was sanctioned in the name of Mayur Educational School. It was billed up to reading 29665 on 15.11.2003 followed by few provisional bills but then stopped billing as the same escaped from billing net due to some technical error during the data transfer process in new computerized system after unbundling of DVB and no bill could be issued till March 2017, since the meter was found during inspection of the premises on 16.03.2017. However, the applicant also did not inform for non receipt of bill against electricity consumed during this entire period.

4. The meter was removed / seized on 21.03.2017 at reading 244618 and the seizer report was prepared. The impugned bill of Rs.17,30,875/- was issued on 21.03.2017 on a new CA No.100146789, meter no. 990445 for the entire period of 15.11.2003 to 16.03.2017 as demand against the escaped billing. The meter was replaced with new meter in 2017.

5. The Discom (Respondent) had argued before the CGRF and now before this forum in rebuttal stated that Section 56(2) is not applicable in the instant case and that the arrears/charges are recoverable under the demand of "escaped billing", and also relied upon several Courts decisions in support of their contention that they are within their right to recover legitimate dues for electricity consumed.

6. The Discom (Respondent) also pointed out that there has been negligence on the part of the Applicant as he did not approach them for issue of duplicate bills as stipulated in Regulation 44(iv) and 47(i) of the DERC's Supply Code & Performance Standards Regulations 2007.

7. The Applicant stated before the CGRF that Respondent ignored the fact of two different meters and the possibility that meter no. 0990445 might have been replaced by



another meter no.293548 on or after 07.05.2005 with unknown initial reading and issued three bills in school's name on a new allotted CA No. 100146789.

8. The issue before the CGRF was that the electricity recorded in the meter was consumed by the school referred in this complaint and therefore whether respondent is entitled to raise a bill for the electricity consumed in last thirteen years and whether the limitation clause U/s 56(2) of IEA 2003 applied in this case to recover the bill amount.

9. After hearing both the parties, CGRF had passed its final order dated 27.09.2018 and considered that:

- (1) That there is negligence on the part of complainant resulting in the present situation of accumulated impugned bill.
- (2) The complainant did not make efforts to get the bill as per Regulation 44(iv) and 47(i) of the DERC's Supply Code & Performance Standards Regulations 2007, for such a long period of more than thirteen years and instead resorted to power theft by continued use of electricity through burnt phase of meter and not reporting respondent to replace it.
- (3) The bill is bound to be prepared on the basis of applicable tariff from time to time without any LPSC or penalty while its evaluation remained undisputed.
- (4) The impugned bill dated 21.03.2017 amounting to Rs.17,30,870/- is correct and payable by complainant.
- (5) He is at liberty to pay this amount in twelve equal monthly installments and first such installment should be paid in October 2018.
- (6) Looking at the negligence to get the bills and indulging in theft of electricity used by educational institution, no other relief is considered.

10. The applicant is now seeking to cancel the bill issued to him on 21.03.2017 for the period from 15.11.2003 to 16.03.2017 and has prayed the following:

- i) The Respondent may be directed to cancel this bill for Rs.17,30,870/- and to issue a fresh bill for 2 years as per Section 56(2) of the Electricity Act, 2003.
- ii) The period from 15.11.2003 to 08.03.2005 during which eight bills were issued should be excluded.
- iii) Order may be issued for the stay of recovery of this bill till the pendency of the case.

11. Applicant contended that no bills were received from the Respondent. He claimed that law of limitation applies in such matters. He argued that even when the law pertaining to GST was not there, still law of limitation was being applied. It was obligatory



on the part of the Respondent to have issued the bills under the extant regulations on the subject, which they failed to do so. Section 56 (2) is applicable in this case, hence, the bills should have been provided and it attracts the provision that if such was the case, the escaped billing could not have been resorted to.

12. Keeping in view the facts on record and the pleading of the applicant it may be concluded that there is no cogent justification in accepting the prayer of the applicant for condoning the bill amount under Section 56(2) of the Electricity Act 2003. The impugned order of CGRF is in accordance with the law and does not suffer from any legal and factual infirmity so as to warrant interference of this Forum in exercise of the Jurisdiction under Section 42(6) of the Electricity Act 2003 ("Act") and Regulations made there under. Strange as it appears to be but it is a fact on record that the applicant did not make any effort to check up from the Discom (Respondent) as to why the bills have not been forwarded. No demonstration in any manner has been made by either producing the documents to show that there was any effort on the part of the school to have checked up the amount of bills which should have been forwarded or should be forwarded but they continued enjoying the leisure of electricity without paying a single penny for the entire period. "Liability to pay Electricity charges, in my view, is a continuing liability and the consumer cannot escape from that liability by invoking Section 56(2) of the Electricity Act 2003.

13. I have gone through the available records placed before me, the pleadings and the arguments advanced by the parties, I am constrained to place on record that the Applicant's school appears to be highly negligent in not paying the electricity charges which is very obvious that it was deliberate act on the part of the institution not to pay the electricity charges in time. It was highly improper and inappropriate to have argued that since bills were not forwarded to them they did not pay the electricity charges. In fact as an educational institution it was their bounded duty to have checked with the Respondent as to why the bills were not forwarded to them. Under such circumstances it would not be justifiable for the Applicants to take shelter of Section 56(2) of the Electricity Act 2003.

14. As regard prayer of applicant that the period from 15.11.2003 to 08.03.2005 is to be excluded since the electricity bill for the said period were issued and though the records are not available as regard payments or otherwise, it is to be accepted that payment was done. The available records before this forum confirms that no electricity bills for the said period was issued by Respondent and to the effect they send mail dated 02.01.2019 which is the part of record.



15. As regards the Respondent invoking the provision relating to escaped billing, the Ld. CGRF have exhaustively dealt the said issue in Paragraph 6 and 7 of their order dated 27.09.2018. It has been clearly brought out that due to technical reasons the bills required to have been served on the Applicant's school, could not be served and when the error was detected, the Respondent took action in accordance with the law and the laid down procedure. The justification and the reasoning given by the Ld. CGRF on the issue of escaped billing etc. appears to be in order & I do not find any reason to interfere with the ruling in any manner.

16. In view of the discussion as aforesaid and considering the case in its entirety the holistic view demands that there is no requirement to interfere with the CGRF order dated 27.09.2018 except to the extent that the applicant shall pay the whole sum due in monthly installment of Rupees @ 50,000/- per month along with the amount of the current billings. The case is disposed off. Order accordingly.



Rakesh
Mehta
(Rakesh Kumar Mehta)
Ombudsman
28.12.2018