

**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.751/2016**

**IN THE MATTER OF:**

Shri Rakesh Bhardwaj - Appellant

Vs.

M/s BSES Rajdhani Power Ltd. – Respondent

(Appeal against order dated 22.03.2016 passed by CGRF- BRPL in CG No.741/2014)

**Present:**

**Appellant:** Shri Rakesh Bhardwaj, Appellant with advocates Shri Mukul Dhawan, Shri Sandeep Yadav and Shri Swami Nath

**Respondent:** Shri Naveen Yadav, DGM(B), Shri Rajan Choudhary, CO and Ms Monika Sharma, Advocate – authorized representatives of the Discom.

**Date of Hearing:** 25.10.2016

**Date of Order:** 28.10.2016

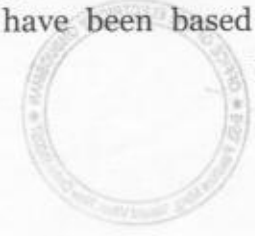
**ORDER**

1. Appeal no.751/2016 has been filed by Shri Rakesh Bharadwaj, S/o Shri Chaman Bharadwaj, R/o C-16, Gulmohar Park, New Delhi – 110049, against CGRF-BRPL's order of 22.03.2016 in CG No.741/2014.

2. The Appellant's case is that he has been served with two bills of about Rs.1.11 lakhs and Rs.56,900/- against his two connections for the period January, 2013 to September, 2014 on the ground that his meters were defective and the billing was on the higher side. Neither of the two meters was, however, found defective when tested in September, 2014. The Appellant had to approach the CGRF for rectification of these bills and grant of a stay against disconnection when the Discom failed to respond to his repeated representations.

3. The Appellant has been aggrieved by the CGRF's verdict which has concluded that the meters in question have been working correctly and that the consolidated bills issued for the period 12.01.2013 to 18.08.2014 have been based on actual

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consumption as recorded by the meter reading instrument/downloaded data. At the same time, the CGRF had also directed the Discom to revise the bills for the period under dispute without levying LPSC but pay a compensation of Rs. 4,250/- against each connection for raising bills on a provisional basis for a period of 19 months instead of adhering to a time limit of two billing cycles as provided for in the DERC's Supply Code & Performance Standards Regulations, 2007.

4. The Discom's response is that both the connections had earlier been disconnected on 09.01.2013 as the Appellant had not been making payments since September, 2012. The cheque given by the Appellant on 09.01.2013 had been dishonoured, prompting the Discom to send him a notice under Section 138 of the Negotiable Instruments Act after which he made the payment the next day following which his supply was restored. The Appellant, however, did not complete the formalities for restoration as a result of which the connections remained shown as disconnected in the Discom's records but which were found reconnected through a surveillance / field visit on 18.08.2014. Thereafter, the Discom raised bills for the above period from January, 2013 to August, 2014 which the Appellant contested before the CGRF.

5. The Discom further states that since no further payments were forthcoming from the Appellant, his supply was again disconnected for a second time on 10.11.2014 but restored the same day as a matter of goodwill after he had given an undertaking that he would clear the current bill and an instalment of the earlier bill by March, 2015. Having given this commitment in writing on 10.11.2014, he approached the CGRF the very next day seeking a stay against disconnection. The Discom has also stated that the Appellant had not paid these bills and had also stopped paying the current demand since May, 2015 resulting in a disconnection of his supply for the third time on 21.07.2015. He, however, approached the Discom on the same day with another request for restoration of supply, giving two post-dated cheques which were again dishonoured although his restoration request had been acceded to. Instead of paying his dues since this restoration, the Appellant has now approached the Ombudsman.

6. I have considered the material on record and heard the parties. The litigation has been occasioned, in part, from the failure of the Discom to issue proper bills for about 19 months from 12.01.2013 to 18.08.2014 with the billing containing contradictory entries - showing the meter status as "defective" while simultaneously showing the billing calculation as being on an "actual" basis. The Discom has stated that they had disconnected the Appellant's supply on 09.01.2013 for non-payment of outstanding dues and restoring it the next day on 10.01.2013 but with the connections continuing to be reflected as "disconnected" in the Discom's records as the Appellant had not completed the formalities for reconnection. The connections, therefore, effectively remained out of the sight of their billing system with bills being

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raised on a provisional basis till the connection was "rediscovered", so to speak, during a surveillance / field visit on 18.08.2014.

7. The Discom's explanations stretch credibility to its limit, to say the least, given the fact that although the Appellant's premises had five electricity connections, these two connections were somehow being consistently overlooked by whoever was supposed to read the meters. How the Discom and its field staff remained blissfully unaware of this requires a more convincing answer than what has been forthcoming. The bland statement during the hearing that the meter reader would only attend to the connections listed in his order and would be blind to the existence of any other meter which happened to present on the premises. It would be relevant here to reiterate an observation, in a paraphrased form, which had been made in the context of another case involving a similar issue and involving the same discom, namely that *"all that the Discom has managed to highlight remarkably well is the complete disconnect that seems to exist between its supervisory mechanisms and field staff. It may be worthwhile for the Discom to examine whether its personnel are actually performing their duties so that ... the possibility of such situations arising in future is obviated"*.

8. As far as the correctness of the data recorded by the Appellant's meters is concerned, both the meters in question were tested in a laboratory at the demand of the Appellant and found to be working accurately. The CGRF, after hearing both the parties and examining the material on record, has concluded that *"the complainant is required to pay the bills of the two connections ... corrected up to 12.06.2015 and monthly bills accrued after 12.06.2015. No LPSC shall be levied on these two bills for the period till 15 days after the issue of this order."* Given the fact that the meters tested and proved to be accurate, there are no reasons to disbelieve the Discom that the consolidated bills for the period in question were raised on the basis of correct data downloaded from accurate meters. The bills are, therefore, to be considered as correct and the Appellant liable to pay for the electricity he has been consuming all along without making any payments even against current dues. The CGRF has already granted a concession to the Appellant by waiving LPSC charges.

9. During the hearing, the Appellant's counsel stated that there were discrepancies between the amounts being shown as payable by the Respondent in the impugned bill and that shown in the consolidated bills submitted by them before the CGRF as mentioned in paragraphs 1 and 4 of its final order. A closer reading of the complete texts of these paragraphs shows that the amount being shown as payable pertains to a different period as well as separate elements of late payment surcharges / slab system used for arriving at these figures. The Forum, in paragraph 7 of its final order, has clearly stated that the amount payable have been corrected up to 12.06.2015. The Appellant's counsel also raised the issue of the absence of any entry against the Maximum Demand Indicator (MDI) column in the bill for the period under dispute. This issue was not contested before the CGRF. Nevertheless, it has

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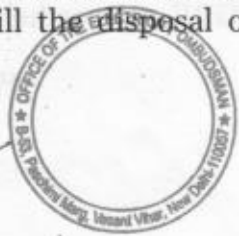
no material bearing on the amount shown as payable in the bills as the latter were being raised on a provisional basis only and an MDI indication becomes relevant only if they had been raised on an actual consumption basis.

10. Apart from the Discom's own lapses mentioned above, this dispute has also been unnecessarily complicated and prolonged by the Appellant defaulting on the dues payable by him and adding to the problem by making payments through cheques which were dishonoured and then opting to agitate the billing before the CGRF. He has neither honoured the commitment he had made in writing to the Discom when requesting them to restore his supply nor has he made payments even against current dues. Out of the 16 hearings before the CGRF, he was absent on 9 occasions and appearing at 3 others only to seek further adjournments. The appeal before the Ombudsman was also filed after a lapse of 5 months from the date of the CGRF's final order and even on the day of the very first hearing, his representative sought an adjournment.

11. It is necessary to note here that the same representative submitted a miscellaneous application on the afternoon of the day before the present hearing demanding attested/certified copies of all orders and minutes till date including a full copy of the case file forwarded to the Ombudsman's office by the CGRF. This application has been rejected as being unsustainable with no rational or reasonable basis. All documents required by the Appellant for the filing of this appeal were already available with him including the CGRF's final order as well as Respondent's replies. If the Appellant had wanted copies of the CGRF's file, he should have approached the Forum for the same before he filed the present appeal. It is not the function or responsibility of an Appellate Authority to provide certified copies of the documents of a lower court. Neither can copies of orders be demanded in a case which has not yet been adjudicated upon with final orders yet to be passed. The timing of the submission of this application, coming as it did the late afternoon of the day before the hearing, is something I do not wish to enlarge upon.

12. I also deem it appropriate to place on record that the Ombudsman's office has been more than generous in accommodating the Appellant. As mentioned above, the CGRF's order dates from March, 2016 while the Appellant filed his five months later on 01.09.2016 whereas it was required to be filed within one month in terms of Regulation 20(3)(ii) of DERC's Notification No. 11(29)/DERC/2003-04/1265 dated 11.03.2004. Nevertheless, the plaintiff was admitted in the consumer's interest. The Appellant was also required to deposit one-third of the disputed amount for his appeal to be accepted in terms of Regulation 20(3)(iii) which he had not done. Nevertheless, his appeal was accepted and he was permitted to deposit the amount after its admission although rules technically permit no such waiver. A stay was even granted on the payment of bills for the period under dispute with the Discom being directed not to disconnect the supply subject to payment of current demand till the disposal of the appeal. Further, when some procedural problems

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came in the way of the Appellant depositing the mandatory one-third amount with the Discom, the Ombudsman's office went out of its way to help him by receiving his bank draft on the Discom's behalf and getting the Discom to come and collect it.

13. The objective of this extended exposition is to place on record that the litigation has been unnecessarily prolonged for more than fourteen months before the CGRF, mostly on account of the Appellant's non-appearance on 9 out of 16 occasions and the 5-month delay in filing this appeal. Further, the timing of his miscellaneous application for certified copies of all documents on the afternoon of the penultimate day before the hearing only seems to point to an absence of any sense of urgency on his part to bring this case to an early resolution.

14. There has undoubtedly been a contributory negligence on the part of the both the Discom as well as the Appellant which has resulted in a wholly avoidable case being agitated, first before the CGRF and now before this court. Having taken all the material on the record and the depositions of the parties concerned into consideration, I see no basis for interfering with the final verdict of the CGRF which may stand as it is.

The appeal, accordingly, stands dismissed.



**(Sundaram Krishna)**  
**Ombudsman**  
**28.10.2016**