

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.766/2016

IN THE MATTER OF:

Shri Ran Singh - Appellant

Vs.

M/s BSES Rajdhani Power Ltd. – Respondent

(Appeal against order dated 29.09.2016 passed by CGRF- BRPL in CG No.303/2015)

Present:

Appellant: Shri Ran Singh

Respondent: Shri M.D. Jayaprakash, DGM BRPL


Date of Hearing: 12.01.2017

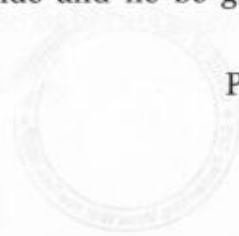
Date of Order: 19.01.2017

ORDER

1. Appeal No. 766/2016 has been filed by Shri Ran Singh, s/o Shri Desh Ram, against CGRF-BRPL's order of 29.09.2016 in CG No. 303/2015.

2. According to his plaint, the Appellant had applied for a new domestic connection at the place of his residence at _____ which was rejected by the Discom (Respondent) on the ground that he had failed to provide sufficient ownership proof of the property in question. The CGRF-BRPL, which he had approached for redressal, did not accept his appeal, rejecting it on same basis as the Discom that proof of ownership had not been clearly established and that he was free to approach the competent civil court for that purpose. The Appellant has stated that the CGRF has failed to take into account the fact that he is the occupier of the premises in question and has submitted documentary proof of occupancy through his Aadhar card, bank passbook and cooking gas connection. He has also claimed that the Discom has provided connections to other residents in the same area even in cases where occupancy is in dispute. His prayer is that the CGRF's order be set aside and he be granted an

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9

electricity connection on a priority basis as he is a senior citizen and has a fundamental right to it under the Constitution.

3. The Discom's position is the same as the one they have taken before the CGRF, namely that the Appellant has failed to provide sufficient proof of ownership of the property in question as per Regulation 16 of the DERC's Supply Code and Performance Standards Regulations, 2007. Furthermore, the Appellant has also not been able to provide proof of legal occupancy as tenant as one Smt. Radhika Narayan, who describes herself as the legal heir of the now-deceased owner of the premises in question, has been able to submit a succession certificate which relates to debts and securities pertaining to moveable properties only and not the immoveable property. The Discom's argument is that requirement to provide an electricity connection under Section 43 of the Electricity Act, 2003, refers to a "legal occupant", a condition which the Appellant does not fulfil as the legality of his tenancy itself stands on shaky ground. The Discom was not, however, able to satisfactorily rebut the Appellant's statement that they had granted some connections in the same area to applicants whose premises were under dispute.

4. I have considered the material on record and heard both parties. Without going into the details of ownership rights and titles to the property in question and connected supporting documentation, there are some elements which need to be factored into any decision to be taken in this case. Firstly, the Appellant has produced his Aadhar card, bank passbook and domestic gas connection papers as proof of his occupancy of the premises he is seeking an electricity connection for. The Aadhar card is a Government-issued identification-cum-residence proof document. Bank passbooks are now accepted as proof of a residential address even for the issue of passports as per Government orders and it is not uncommon for domestic cooking gas connection papers to be used and accepted for similar purposes. These documents cannot be disregarded summarily and the Appellant has, therefore, to be taken as residing as an occupant at the address he has given and sought a connection for. Secondly, Section 43 of the Electricity Act, 2003 does not differentiate between or categorize occupants but merely provides that the Licensee shall provide an electricity connection when applied for by the owner or occupier of any premises within one month. No distinctions are drawn in this Section between "legal" or "illegal" occupants. Thirdly, an electricity connection today constitutes one of the basic necessities of life and is only a service or a utility provided to a consumer by a Discom against payment. Its mere provision does not authorise, confer or establish any proprietary rights or titles on the occupier who happens to be residing in those premises.

5. In this context, it may not be out of place to mention two case histories, among others, which have held that a lawful occupier means an actual occupier in a settled position. The Hon'ble Calcutta High Court, in *Abhimanyu Mazumadar vs Superintending Engineer and Anr.* (AIR 2011, Calcutta 64), held that the Electricity Act, 2003 does not incorporate any provisions for the resolution of disputes as to the status of the occupier of a property for which an electricity connection is being sought and that a lawful occupier meant an actual occupier in a settled position. For that matter, in *Ramegowda vs. Varadappa Naidu* (AIR 2004, SC 4609), the Hon'ble Supreme Court had held that even a trespasser, who was in settled position in the premises, was entitled to certain protections under law even against the true owner.

Radhika



6. Against this background, the basic question of whether the Appellant is eligible to seek an electricity connection at the place of his residence can only be answered in the affirmative. The CGRF and the Discom have gone into an unnecessarily convoluted examination and discussion of proprietary rights and titles which are not quite germane to the immediate issue at hand. Accordingly, the verdict of the CGRF is hereby set aside and the Discom directed to release the electricity connection sought by the Appellant. As a matter of abundant precaution and prior to releasing the connection, the Discom can always obtain an indemnity bond / affidavit etc from the Appellant to the effect that, inter alia, he understands that the connection he has received does not confer any proprietary rights, privileges or titles on him in respect of the premises he is residing in and that the Discom will not be responsible in any manner for any consequences which may arise out of the grant of the connection.

The appeal stands disposed off accordingly.

Sundaram Krishna

(Sundaram Krishna)
Ombudsman
19.01.2017

