

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. 779/2017

IN THE MATTER OF:

Smt Leelawati - Appellant

Vs.

M/s BSES Rajdhani Power Ltd. – Respondent

(Appeal against order dated 21.03.2017 passed by CGRF-BRPL in CG No. 10/2017)

Present:

Appellant: Shri Aditya Yadav, S/o Smt. Leelawati

Respondent: Shri Vikram Narula, DGM (B) and Shri Deepak Pathak,
Advocate, on behalf of BSES - BRPL

Date of Hearings: 15.05.2017 and 24.5.2017

Date of Order: 01.06.2017

ORDER

1. Appeal No. 779/2017 has been filed by Smt. Leelawati, WZ-272B, Madipur Village, Delhi – 110063 against CGRF-BRPL's order cited above. Her plaint is that her family is the legal owner of piece of property bearing municipal address number WZ-272B but has recently come across electricity bills from the Discom (Respondent) in respect of eight other consumers who are unrelated to her but whose bills carry the same postal address as hers, namely WZ-272B. Her son, who argued the case on her behalf as she is a senior citizen of 82 years of age and unable to attend court, has stated that none of these persons possess documentary proof of their legal right of residence on the address they have given but have nevertheless been given electricity connections by the Discom using his address in violation of guidelines and in the absence of relevant documents. Since the Discom had failed to correct this discrepancy, the Appellant had approached the CGRF for remedy. According to him, the CGRF has failed to take these facts into consideration and has erred in holding that it cannot issue orders for disconnection and that the issue of the legality of the addresses would have to be taken up with the appropriate revenue authorities for demarcation of the plots so that the correct addresses are reflected.

2. In its response and in the hearings before the CGRF and this court, the Discom has not disputed the fact that the eight new connections released by them and carrying the address number as WZ-272B are to different persons who are not



related to the Appellant and, furthermore, that the latter's property is a separate unit and bears no relationship with the other eight connections bearing the same billing address. While maintaining that the connections to these eight persons have been granted on the basis of documents consistent with the requirements specified in the DERC's Supply Code & Performance Standards Regulations, 2007, the Discom has denied that they have acted in violation of any law/regulation. During the hearing, they have argued that the Ombudsman has no power to adjudicate upon this case as it involves measurement of the property in question, demarcation of Lal Dora land and examination of documents of identity and address proof. According to them, the case is in the nature of a civil/title dispute and not a consumer dispute and, therefore, maintainable only before a civil court. Furthermore, they have also argued that the non-joinder of the other eight parties in the appeal before the Ombudsman would run contrary to the principles of natural justice as they must be impleaded in the present proceedings and given an opportunity to be heard. Finally, they have held that the grant of an electricity connection does not create any equity or confer any title on the beneficiary and neither is it stated so anywhere in the relevant laws and regulations.

3. I have heard both the parties and considered the material on record which includes the application forms and other documentation filed by the eight consumers referred to above in support of their applications for connections. In essence, the Appellant has sought a rectification of the problem of electricity bills being issued to other, unrelated consumers using her municipal address of WZ-272B. While disconnection of the electricity connections to the other parties had also been sought in the written plaint, the Appellant's son/representative clarified during the hearing that all that they wanted was the cessation of the "misuse" of their address by those who do not have a legal title to it. Since the Appellant has not agitated the issue of disconnection, this subject will not be visited here beyond the observation that electricity connections to consumers are considered only as a utility provided to them by Discoms against payment and its mere provision cannot be construed as establishing any titles or proprietary rights over the property in which they happen to be residing.

4. On the issue of jurisdiction, the Ombudsman is perfectly competent to admit and hear the appeal under extant laws and regulations as the subject matter of the appeal concerns a consumer grievance against a Discom. The Discom's argument that the Ombudsman lacks jurisdiction because property / title issues are involved is merely an attempt to mislead and is hereby dismissed as the Appellant is not claiming a title over the site where the other parties are running shops etc and neither is such an issue under adjudication here. Again, the demand for joining all the other eight parties concerned at this appellate stage is not sustainable as this is not a court of first trial and the parties have already been impleaded and heard by the CGRF. Whatever they had to say and whatever documentation they or the Discom produced in their defence is already a matter of record. The Discom's demand for joining them will serve no material purpose beyond prolonging the case and obfuscating matters further, hence it is rejected.

5. Reduced to its essentials, the simple fact of the matter is that the Appellant has a clear and undisputed title / ownership over the property bearing municipal number WZ-272B, purchased by her late husband through a registered sale deed

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dated 27.05.1968 which has been brought on record. She and her family already enjoy four electricity connections at this address. The other eight consumers have no documentation to prove their clear title or right to this address, namely WZ-272B. Yet, they have been granted connections and are being issued bills by the Discom carrying the address of WZ-272B which clearly does not belong to them. As stated by the Appellant during the hearing, this anomaly came to their notice only by chance when some electricity bills carrying her address but belonging to other parties were delivered to her in July last year.

6. This conundrum has clearly arisen as the property/address in question here falls under the "Lal Dora" category of village lands where demarcation of properties is within the jurisdiction of the local revenue authorities. It is not uncommon to find that demarcations have not been carried out with due diligence, leading to confusions over property boundaries, something which vested interests sometimes try to take advantage of. The only recourse left to the affected parties in such cases is either to approach the local revenue authorities to conduct a proper demarcation of the boundaries of the disputed property or a civil court to establish proprietary rights as circumstances may warrant.

7. The CGRF has not given a final verdict but has left the matter open-ended by saying that they cannot issue any directions or get the electricity connections to these eight parties cancelled and suggesting that the parties can approach the local Sub-Divisional Magistrate for proper demarcation of the plots so that the correct address can be established or, alternatively, that the other eight parties can get their addresses corrected from the concerned authorities. All that the Discom has been told is to ensure that the complaint of the Appellant is taken notice of in their records so that she is not subjected to any inconvenience or harassment on account of the connections/bills using her address. A suggestion made by the Discom during the first hearing – and referenced in the CGRF's verdict as well – is that they can issue a comfort letter to the Appellant to the effect that the use of his address for the purposes of the billing would not adversely affect her interests. This suggestion is inadequate and serves no purpose as a comfort letter from the Discom would have no legal force.

8. While it is not the intention here to go into the intricacies of titles and proprietary rights, a crucial question nevertheless begs an answer: which of the two parties in this case – the Appellant or the eight other persons – have a more secure, unalienable legal claim over the municipal address in question, namely WZ-272B and which set of documents submitted carries greater weight and evidentiary/probative value? The answer is obvious: the Appellant has her registered sale deed showing WZ-272B as belonging to her - a fact which has not been disputed by the Discom – while the other persons/parties have no documentation of equal weight to show their claim over the same address of WZ-272B. The documentation produced by them and accepted by the Discom when granting and energizing the connections show several inconsistencies. For example, the declaration forms filled and signed by them do not even carry the address they are claiming to be lawful occupants of, the relevant entry being blank, thus rendering the declarations themselves meaningless. Again, the "Lal Dora Certificate" issued by the local MLA certifying the beneficiary as resident at the address of WZ-272B gives a khasra number on some certificates while it is blank on another. In any case, only the local revenue authorities are competent to

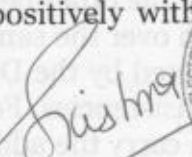
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demarcate "Lal Dora" lands and assign identifiers which can be used as addresses of parcels of land. The purpose of this exposition is merely to note that there are patent inconsistencies and that it is abundantly clear that due diligence has not been exercised by the Discom in verifying the documentation and addresses provided by these persons when they applied for the connections.

9. The CGRF's verdict is insufficient unto itself in that it fails to address the core issue of how to resolve the problem which has arisen in the first place on account of the Discom's actions. The ends of justice will not be met if this case is disposed off in an open-ended fashion without attending to the main grievance of the Appellant, namely the misuse of her address by unrelated parties and the Discom for billing purposes. The Discom cannot absolve itself of all responsibility for having created this unsatisfactory state of affairs in the first place - which can lead to potential problems for the Appellant - and then washing its hands clean off the matter by claiming that the appeal is not maintainable before the Ombudsman or that it is a civil matter to be agitated elsewhere. It would be a travesty of justice if a senior citizen like Ms Leelawati, who is 82 years of age, is simply left to engage in running from pillar to post at her advanced age to secure her rights in a situation not of her making. In short, it is up to the Discom and the other eight parties, who are incorrectly using the Appellant's address, to find a solution to a conundrum which they themselves are responsible for having manufactured. The responsibility of seeking a solution to this problem does not devolve onto the Appellant.

10. For its part, therefore, the Discom is hereby advised to revisit the address /site verification systems they have in position so that similar situations and conflicts are not triggered in the future. While the Discom is correct in its submission that an electricity connection by itself does not confer any equity or title in favour of a consumer, as mentioned in paragraph 3 supra, it does not constitute, at the same time, a license for slackness or negligence in the process of establishing the correctness of an address for the grant of a connection and allowing the potential for conflict situation to arise at some point in the future.

11. As suggested by the CGRF, the other eight consumers mentioned above could approach the concerned revenue authorities for a proper demarcation of the sites they are occupying so that a proper address/identifier can be assigned to the premises /plot they are in occupation of them for billing purposes. In the meantime, the Discom is hereby directed to cease and desist from using the Appellant's address of WZ-272B - over which she has a clear, undisputable title - for billing purposes. Similarly, the other eight consumers concerned are also restrained from using the address of WZ-272B over which they have no clear title for their electricity connections. The Discom and these consumers are free to evolve any solution to this conundrum as long as it does not prejudice the interests of the Appellant. The outcome of this exercise is to be reported to the Ombudsman positively within a period of two months from the date of receipt of this order.


(Sundaram Krishna)
Ombudsman
01.06.2017

