

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.763/2016

IN THE MATTER OF:

Shri Vinod Kumar Dayal - Appellant

Vs.

M/s BSES Yamuna Power Ltd. – Respondent

(Appeal against order dated 26.09.2016 passed by CGRF- BYPL in CG No.22/06/16)

Present:

Appellant: 1. Shri Mayank Dayal s/o Shri Vinod Kumar Dayal
 2. Shri Amiet Andlay, Advocate

Respondent No.1: 1. Smt Kashmi Gupta, Manager (Legal), BSES-BYPL
 2. Shri Asish Chaudhary, Dy GM, BSES-BYPL, authorized
 representatives of the Discom.

Respondent No.2: 1. Shri Vinay Dayal
 2. Shri Vidur Dayal

Date of Hearing: 28.12.2016

Date of Order: 29.12.2016

ORDER

1. Appeal no.763/2016 has been filed by Shri Vinod Kumar Dayal, C-216, Sarvodya Enclave, New Delhi – 110017 against the verdict of CGRF-BYPL in order No. 22/06/16 dated 26.09.2016.

2. The background is that the Appellant had approached the CGRF alleging that Shri Vinay Dayal has managed a change in the category of his electricity connection from domestic to non-domestic in connivance with the Discom. According to him, the connection in the family haveli in Chandni Chowk exists in the name of Shri Maheshwar Dayal and any such category change should have been effected only after obtaining a No Objection Certificate (NOC) from the legal heirs and karta of Maheshwar Dayal (HUF). Further, a civil suit is pending between the parties for

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partition, rendition of accounts and a permanent injunction in the Hon'ble High Court of Delhi which has passed orders for the status quo to be maintained.

3. The Appellant is aggrieved by the CGRF declining to accommodate his demand that Vinay Dayal's connection category be reverted to domestic on the ground that the matter is sub-judice in another court and cannot be entertained by the CGRF under Section 7(3) of the DERC's Guidelines for establishment of Forum for Redressal of Grievances of the Consumers and Ombudsman Regulations, 2003. He has claimed that the CGRF has ignored the fact that a heritage structure is being misused for running a packaging manufacturing activity contrary to the Master Plan 2021 as well as ignoring the fact that the North Delhi Municipal Corporation (NDMC) has already served a notice in January, 2016 directing the cessation of such misuse. In addition, the Appellant has also alleged a conflict of interest and has imputed that the CGRF's order has been passed under the influence of his brother's counsel who happens to be part of a law firm empanelled by the concerned Discom.

4. The Discom's (Respondent No.1) response is that the Appellant has no locus standi as he is not the registered consumer of the connection in question which stands in the name of their father, Maheshwar Dayal and neither does he have a privity of contract with the licensee. The category change has been effected after the completion of necessary formalities in accordance with regulations on the subject and that, furthermore, only the category has been changed and not the name of the registered consumer with an NOC not being a requirement for such cases. The Discom has also contradicted the Appellant's claim that NDMC had ordered the sealing of his brother's premises, stating that a site inspection carried out on 23.06.2016 has revealed that the premises in question were not sealed and that Vinay Dayal has already represented to the concerned authorities against the show-cause notice for sealing with the matter being under process and therefore sub-judice. Besides, a status-quo is to be maintained with respect to the rights and titles to the property as directed by the Hon'ble High Court. There are no directions or restraints with respect to a change in the category of the electricity connection and no contempt of the Court is, therefore, involved as alleged by the Appellant.

5. I have gone through the material on record and heard the Appellant and the two respondent parties. The basic issue revolves around the change of the category of the electricity connection registered in the name of the father, Maheshwar Dayal, from domestic to non-domestic at the instance of his younger son, Vinay Dayal, which has been opposed by the elder son, Vinod Dayal. It is abundantly clear that a family dispute is in progress over the property before the Hon'ble High Court whose directions on maintenance of status quo relates to the subject of the rights and titles of respective members of the same family over their ancestral property. The challenge filed by the Appellant pertains only to the change in the category of the electricity connection from domestic to non-domestic. This change in category has no bearing whatsoever on the rights and titles of the individuals concerned to the property in question, a matter which remains to be adjudicated upon by the Hon'ble High Court and whose verdict would be automatically binding in any case on all concerned including the Discom if that category change issue happens to come up in any form before the Court. The Discom has confirmed that the category change has been carried out with due diligence and in accordance with the extant regulations of the Delhi Electricity Regulatory Commission and that they are not in receipt of any

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orders from the concerned authorities regarding the sealing of the premises. I find no reason to disbelieve or doubt that.

6. The second Respondent's side stated during the hearing that they are the sole occupiers of the premises and users as well and that it has always been and is continuing to be used for household industry purposes as permitted under law for the past forty years. In any case, the allegation by the Appellant of misuse of the premises for commercial activities and the sealing order issued by the NDMC in that connection are subjects which do not fall within the remit of the Electricity Ombudsman and would have to be agitated by the Appellant before the appropriate authorities if he so wishes.

7. Having taken all material facts and depositions into account, I am of the considered opinion that the Appellant has no locus standi to pose this challenge to the category change and that the Discom cannot be faulted for having changed the category of the electricity connection from domestic to non-domestic. The effect of this change is limited solely to a change in the tariff/billing plan only with no material impact on the issue of property rights and titles by the mere factum of this change – hence no contempt of court is involved. The verdict of the CGRF is, therefore, deficient in that they have left the matter unresolved by taking shelter behind Section 7(3) mentioned in paragraph 3 above and holding that they have no jurisdiction to adjudicate on the complaint.

The CGRF's verdict is hereby set aside and the appeal dismissed as being without a basis.

Sundaram Krishna
(Sundaram Krishna)
Ombudsman
29.12.2016

