



C A No. Applied For
Complaint No. 76/2020

In the matter of:

Kalyan SinghComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

1. Mr. Arun P Singh (Chairman)
2. Mrs. Vinay Singh, Member (Legal)
3. Dr. Harshali Kaur, Member (CRM)

Appearance:

1. Mr. S.S. Rajore, Counsel for the complainant
2. Mr. Imran Siddiqui, On behalf of BYPL

ORDER

Date of Hearing: 22nd January, 2021

Date of Order: 25th January, 2021

Order Pronounced by:- Mrs. Vinay Singh, Member (Legal)

Briefly stated facts of the case are that the complainant applied for new electricity connection but the respondent did not release the new connection.

The complainant submitted that he is resident and owner of H.No. A-222, Khasra No. 427, Gali No. 6, C-part, Mandoli Extn., Delhi-93. That on 24.06.2019, the applicant purchased property measuring 25 sq. yds out of 100 sq. yards, Khasra No. 427, bearing part of house no. A-222, Gali No. 6, Mandoli Extn. Delhi from Smt. Rekha, w/o Sh. Anil Kaushik who already have electricity

Harshali

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connection in her portion/property having CA No. 151381517, tariff category non-domestic. Smt. Rekha purchased the said portion of 25 sq. yards from Mr. Vineet and Vikash both sons of Smt. Krishna Devi and already a connection in name of Vineet Chauhan was energized vide CA No. 101597666.

It is also their submission that Smt. Krishna Devi was the owner of 100 sq. yards plot out of Khasra no. 427, and also had two electricity connections in her name vide CA No. 101587656 and 101576630. On 01.11.2004 she transferred the property to her sons namely Vineet and Vikash.

It is also his submission that he applied for new connection on 04.03.2020, the applicant made an application for new electricity connection vide request no. 008004395366, and made several visits to the office of respondent but of no use. The respondent raised a bill of Rs. 87,841/- against the dues of Smt. Krishna Devi to be paid by the complainant for release of new connection. Therefore, he requested the Forum to direct the respondent for immediate release of the new connection and withdrawal of dues of Rs. 87,841/-. He also asked for relief of Rs. 1,00,000/- and litigation charges of Rs. 22,000/-.

Notice was issued to both the parties to appear before the Forum on 11.12.2020.

The respondent submitted their reply stating therein that the complainant purchased property measuring 25 sq. yards out of 100 sq yards, khasra no. 427, bearing part of house no. A-222, Gali No. 6, Mandoli Extn, Delhi from Smt. Rekha. The complainant applied for new electricity connection for domestic purpose vide order no. 8004395366 on 02.03.2020. On verification it was found that the electricity dues are outstanding against the premises where connection is sought. Accordingly, the site was verified and the complainant was duly intimated about the deficiency i.e. of the outstanding dues of CA no. 101576630 and 1015876556, by deficiency letter dated 20.10.20.



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It was also their submission that the complainant was duly informed about the pending dues of CA NO. 101576630 and 1015876556 and requested to pay the pro-rata amount of Rs. 12557/- and Rs. 9403/- for release of new connection, which is as per Regulation 10(4)(II) of DERC Regulations 2017. The respondent also quoted some judgments of the Hon'ble High court regarding clearing of outstanding dues of erstwhile owner of the premises.

The matter was heard on 11.12.2020, when the respondent was directed to file statement of accounts since 2002 till now and to waive off LPSC as mentioned in the bill. Both the parties were also directed to try for amicable solution.

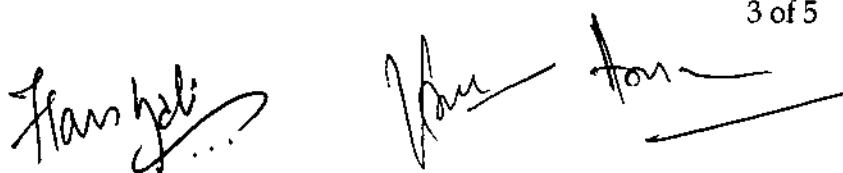
On the hearings dated 22.12.2020 and 08.01.2021, both the parties were given opportunity to settle the matter amicably and respondent vide their mail submitted that the as per the directions of the Forum the pro-rata amount against both the connections in the name of Smt. Krishna Devi are Rs. 9403.06/- and Rs. 6388.07/-.

The matter was finally heard on 22.01.2021, when the respondent submitted that they have released the demand note to the complainant. The counsel of the complainant asked for compensation. Arguments of both the parties were heard and matter was reserved for orders.

We have gone through the submissions made by both the parties from the narration of facts and material placed before us we find that

The respondent sent a letter dated 20.10.2020, to the complainant regarding payment of dues amounting to Rs. 12557/- and Rs. 9403/- against CA No. 101576630 & 101587656 respectively, on pro-rata basis for release of new connection.

After the directions of the Forum the respondent to re-revise the pro-rata bills and after revision the net payable amount is Rs. 6388.07/- and Rs. 9403.06/-.



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74. Determination of Compensation:-

(1) The Licensee shall be liable to pay compensation to the affected consumers, in case of his failure to meet the Guaranteed Standards of Performance as specified in Schedule - I of the Regulations:

Provided that the claim for compensation for violation of provisions of any other Regulations not specified in Schedule-I of these Regulations may be filed before the Commission.

DERC Regulation 4(5) regarding compensation for delay in energizing connection is narrated below:

(4) Energization of Connection:-

(v) Compensation for delay in energizing connection:- a. In case the Licensee fails to provide the connection to an applicant within the prescribed time lines, the Licensee shall be liable to pay the applicant,

b. For determination of compensation, the time taken for release of connection shall not be considered on account of the following:-

(i) If at any stage, additional time period is sought by the applicant for reasons to be recorded in writing; or

(ii) If the same is on account of reasons such as right of way, acquisition of land, delay in permission for road cutting etc., or occurrence of any force majeure event, over which Licensee has no control and the reasons for the delay are communicated to the applicant within the period specified for energisation; or

(iii) If additional time is allowed by the Commission for completion of work.

As decided by Hon'ble High Court and Supreme Court in many cases that the electricity charges cannot be waived off as decided by High Court of Delhi on 02nd March 2009 in the matter of Izhar Ahmed Vs. BSES Rajdhani Power Limited which is narrated below:-

"The intent of such a regulation is to ensure that electricity companies do not have to run around to recover their dues and any person who applies for re-

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connection makes payment of all dues including surcharges and payment of fraudulent abstraction charges before grant of new connection or reconnection of said premises."

Hon'ble High Court also in the matter of BSES Rajdhani Power Limited Vs Saurashtra Color tones Pvt ltd., vide their order dated 02nd July 2009, it has been mentioned that Electricity is public property. Law, in its majesty, benignly protects public property and behoves everyone to respect public property. No doubt, dishonest consumers cannot be allowed to play truant with the public property but inadequacy of the law can hardly be a substitute for overzealousness.


Hon'ble Supreme Court of India in the matter of Isha Marbles has been corrected in the Reforms Act empowering the distribution companies in the NCT of Delhi to recover arrears of electricity charges from the new owner/occupier.


After going through all the material facts of the case, we are of the considered opinion that the grievance of the complainant regarding release of new connection has been redressed after the complainant made payment of the old dues on pro-rata basis pertaining to the said premises.

Since the delay in release of new connection was only because the complainant has not made the payment of the old dues. The respondent released the demand note to the complainant after the payment of old dues by the complainant. So the complainant is not entitled for any compensation.

The case is disposed off as above.


(HARSHALI KAUR)
MEMBER (CRM)


(VINAY SINGH)
MEMBER (LAW)


(ARUN P SINGH)
CHAIRMAN