



Consumer Grievance Redressal Forum
FOR BSES YAMUNA POWER LIMITED
(Constituted under section 42 (5) of Indian Electricity Act. 2003)
Sub-Station Building BSES (YPL) Regd. Office Karkardooma,
Shahdara, Delhi-110032
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SECY/CHN 015/08NKS

C A No. Applied For
Complaint No. 25/2022

In the matter of:

Subodh KumarComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

1. Mrs. Vinay Singh Member(Law)
2. Mrs. Monika Taneja, Member (CRM)

Appearance:

1. Mr. Abhishek Jain, Complainant
2. Mr. Imran Siddiqi and Mr. Deepak Jain, On behalf of BYPL

ORDER

Date of Hearing: 18th April, 2022
Date of Order: 19th April, 2022

Order Pronounced By:- Mrs. Vinay Singh, Member (Law)

Briefly stated facts of the case are that the respondent added Rs. 5,50,000/- approx. in his bill and these dues are of DESU period.

The complainant's grievance is that he is owner of premise no. 1/524-C, Gali No. 3, Friends colony, Shahdara, Delhi-110095 and is paying his electricity bills regularly for the last 20 years. In the bill for the month of November 2021 respondent added an amount of Rs. 5,50,000/- approx. He wrote to respondent but did not receive any reply from them. It is also his submission that his father

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purchased this property in the year 2001 from Mr. Subodh Kumar. There was a court case between erstwhile DESU and erstwhile owner of the property Mr. Subodh Kumar.

Complainant also submitted old court case papers as the matter was not the case of theft and it was overcharged by DESU inspite of having industrial license from MCD. Therefore, he requested the Forum to direct the respondent to waive off old dues with LPSC.

Notices were issued to both the parties to appear before the Forum on 02.03.2022.

The respondent in their reply stated that a suit was filed by Mr. Subodh Gupta bearing suit no. 67 of 1994 against erstwhile Delhi Electricity Supply Undertaking (DESU), inter alia, alleging that bill in the name of Subodh Gupta for an amount of Rs. 5,35,580/- is inflated and not liable to be paid. Vide order dated 04.02.1994, the disconnection was stayed on the basis of said bill. After order dated 04.02.1994, the said bill amount was under column deferred as on account of stay order. The said suit was dismissed in the year 2011 as it abated, on account of death of plaintiff (Mr. Subodh Gupta) in the suit and as his legal heirs were not brought on record. The bill amount which was under challenge was not adjudicated or held to be null and void as the suit challenging the same was dismissed and the dues which were put under column deferred were transferred to regular bill of the consumer in the year 2021. As the court case is no longer pending and stands dismissed the amount so put under lock were unlocked and reclaimed.

The matter was listed for hearing on 02.03.2022, when both the parties were present and complainant was asked to file rejoinder. Forum directed both the parties to explore the possibility of amicable settlement. Forum also directed

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the respondent to keep in abeyance the transferred dues and also to not to disconnect the supply of the complainant till the matter is pending before this Forum. Complainant was also directed to pay the current dues as and when raised by the respondent.

The complainant submitted his rejoinder refuting therein the contentions of the respondent as averred in their reply and submitted that the suit filed by Mr. Subodh Kumar in 1994 against DESU was correct and justified. That was not the case of theft; it was regarding the unjustified charges by DESU. He further submitted that there is no documentary proof regarding calculation of disputed amount and there is no explanation on what account that huge amount has been raised. He also submitted documents related to ownership proof.

The matter was listed for hearing on 21.03.2022, when respondent was directed to file statement of all the energy dues which are pending after the purchase of the property by the complainant.

The matter was finally heard on 18.04.2022, when respondent failed to produce any documents of DVB period and all the energy dues are cleared as per the statement till date. Arguments were heard and matter was reserved for orders.

That there are two cases decided by the Hon'ble High Court Delhi vide writ petition no. WP (C) No. 8568/2009 in the case of Lalit Gulati Vs Govt. Of NCT and other writ petition no. WP (C) no. 13046/2009 in the name of Ranvir Singh Vs Govt. of NCT which were decided in the year 2010 and 2011 respectively by Hon'ble Justice Murlidharan

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Writ petitions WP (C) No 8568/2009 and WP (C) No. 13046/2009 were filed against the bills raised by the Discoms pertaining to the period of erstwhile Delhi Vidyut Board (DVB). In those petitions the petitioners were not given the benefit of the provisions of the said notification on the ground that their cases were under litigation. The abovestated writ petitions were decided by the High Court on 2-12-2010. The judgment has been reported as Lalit Gulati Vs. Govt. of NCT of Delhi 176 (2011) Delhi Law Times I. One bill was raised on the basis of the consumption as recorded in the meter installed in the petitioner's premises for the period 8-08-1989 to 28-07-1994. In the another case the bill was raised for the period 1996 to 2006 during which time the electricity was supplied by DESU. It was held that there is no reason why for certain stale claims, where there is no challenge by the consumers, there is a complete waiver of arrears whereas in those cases where a challenge is raised by the consumer which is pending in a Court, there is no such waiver. Therefore, it was held that the exclusion of the consumers who have challenged the demand of arrears of electricity dues in Courts from the ambit of the benefit of Notification dated 16th /19th May, 2008 is discriminatory and violative of Article 14 of the Constitution of India. Accordingly, CS 104/11/98 KIRPA RAM VS N.D.P.L.

the portion of clauses (1) and (2) of the notification which excludes "the cases under litigation at any forum and at any level" was struck down being violative of article 14 of the Constitution of India and the consequential mandamus was issued to the respondent to extend the benefit of the said notification to the two petitioners and all others who are similarly situated.

9. In my considered opinion, merely because according to the defendant the plaintiff was allegedly found committing theft of electricity and the meter installed in his premises was fictitious one is not a ground not to extend the benefit of the said notification to the plaintiff. It is not the case of the defendant that there was infact no electricity meter installed in the premises

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of the plaintiff by the erstwhile DESU/DVB. Only the half seals of the meter were allegedly found to be fictitious and duplicate i.e. non-DESU. The plaintiff was allegedly found using excess load of 71.56 KW against the sanctioned load of 10 HP. Hence, there is a strong reason to believe that an electricity meter had been installed at the premises of the plaintiff by the erstwhile DESU/DVB. Therefore, the matter pertained to sale of power during DESU/DVB period. Admittedly, the impugned bill pertains to the period when the electricity was supplied by the erstwhile DESU/DVB. Simply because the defendant was not a party to the writ petition is also not a ground not to extend the benefit of the notification to the plaintiff. Therefore, in my considered opinion, the case of the plaintiff is squarely covered by the said notification and, hence, the impugned bill no more survives.

Later on, as decided in CS No. 104/11/98 Kirpa Ram Vs NDPL in 2012 In view of the above discussion, I hold that the defendant is not entitled to take any action against the plaintiff or his LRs on the basis of the impugned bill. The LRs of the plaintiff shall now be entitled to apply for reconnection of the electricity meter in the above stated premises and the defendant shall consider the same according to the relevant rules without taking into consideration the amount of the arrears shown in the impugned bill for Rs. 7,67,753.64P. The application as well as the suit stand disposed off. Decree sheet be prepared accordingly. File be consigned to record room.

Thereafter, the LPA no. 724 of 2011 and 725 of 2011 were filed by the Government of NCT before the Hon'ble High Court Delhi, order dated 24.10.2011 in above mentioned LPA, "there shall be stay on impugned order dated 02.12.2010 till the next date of hearing" and still this LPA is pending in the Court of Justice Najmi Waziri and Justice Swarana Kanta Sharma and was fixed for hearing on 30.03.2022 and now the next date of hearing is 17.08.2022.

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So, we are of considered opinion that the respondent has no right to recover the DVB time energy dues as decided in the writ petition 8568/2009 and 13046/2009 and in the case of Kirpa Ram Vs. NDPL and the LPA is still pending before the Hon'ble High Court and the order was stayed, thus the respondent has no right to recover the DVB time dues which were in litigation till the outcome of the LPA which is listed for future 17.08.2022.

Therefore, we direct the respondent to

1. Respondent is directed not to recover from the complainant, dues prior to the year 2002 (dues of DVB Period which were in litigation) till the LPA no. 724/2011 and 725/2011 is pending before the Hon'ble High Court in which stay is granted by Hon'ble High Court.
2. Respondent is advised in future not to transfer any energy dues of DVB time which were in litigation to avoid the litigation before any Court of law till the outcome of LPA no. 724/2011 and 725/2011.

The case is disposed off as above.

No order as to the cost. Both the parties should be informed accordingly.
Proceedings closed.


(MONIKA TANEJA)

MEMBER (CRM)


(VINAY SINGH)

MEMBER (LAW)

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