

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 01/08NKS

CA No. 152173315
Complaint No. 62/2020

In the matter of:

Poonam

.....Complainant

VERSUS

BSES Yamuna Power Limited

.....Respondent

Quorum:

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

Appearance:

1. Mr. Shiv Durga Prasad, on behalf of the complainant
2. Mr. Imran Siddiqui, On behalf of BYPL

ORDER

Date of Hearing: 08th January, 2021

Date of Order: 11th January, 2021

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

Briefly stated facts of the case are that the respondent changed the name of her electricity meter in collusion with the one Mr. Mehmoor.

The complainant submitted the electricity connection having CA No. 152173315 is installed at property no. A-520, GF, Giri MArg, Mandawali, Delhi-92. It is also her submission that she has not received any bills for the period January 2020 to June 2020, and on enquiry from respondent she came to know that the said connection has been transferred in the name of Mehmoor in collusion with the respondent.

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Therefore, she requested the Forum to direct the respondent company for immediate reversal of name change from Mr. Mehmoor to Ms. Poonam.

Notice was issued to both the parties to appear before the Forum on 02.11.2020.

The respondent submitted their reply stating therein that CA NO. 152173315 energized on 27.05.2017 in the name of Ms. Poonam, W/o Sh. Raj Bahadur A-520, GF, Giri Marg, Mandawali, Fazalpur, Delhi-92. The said connection was transferred in the name of Mohd. Mehmoor w.e.f. 21.11.19. The application for name change was submitted vide order no. 8004208059 by Mohd. Mehmoor, alongwith ownership documents i.e. Aadhar Card copy and registered GPA. Respondent also submitted that application for name change by Mohd. Mehmoor was processed as per Regulation 17 (1) of DERC (Supply Code and Performance Standards) Regulations 2017.

The matter was heard on 02.11.2020, when both the parties were present and respondent submitted that connection in the name of Poonam was energized on 27.05.2017, without property documents on NOC slip, but on 21.11.19 the connection was transferred to Mohd. Mehmoor on the basis of sale deed and without information to previous registered consumer. Secretary CGRF was directed to issue notice to Mohd. Mehmoor. Respondent was also directed to not to disconnect the supply of the complainant till next date of hearing. Respondent also submitted that bill against the said CA No. is pending since 2019.

On 23.11.2020, none was present on behalf of the complainant and Mohd. Mehmoor.

The matter was again heard on 08.12.2020, when Mohd. Faizal, son of Mohd. Mehboob was present and stated that the property in question was purchased by Mohd. Mehboob on the basis of registered documents and GPA.

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The complainant submitted his rejoinder refuting therein the contentions of the respondent as averred in their reply and stated that complainant is residing and in possession of said property since her marriage and the property is her ancestral property. In April 2017, the complainant applied for new electricity connection in her name in the above said premises in which connection was installed vide CA No. 152173315, and since then the complainant is using electricity from the said connection. The complainant further reiterated her original complaint.

The respondent also submitted their additional submissions submitting therein that complainant is using the supply and not making the payment of the consumption bill on the pretext of alleged wrong name change. The connection of the complainant was energized on 27.05.2017 at A-520, GF, vide CA No. 152173315 for NX purpose. Last paid bill by the complainant was for Rs. 2250/- dated 26.11.19. Mohd Mehmood applied for name change on 02.12.2019 vide order no. 8004208059 also submitted documents i.e. ownership copy and Aadhar copy and pan card copy and changed the name.

The matter was finally heard on 08.01.2021, when arguments of both the parties were heard and matter was reserved for orders.

The main issue in the present case is whether the name change done by the respondent is correct or not.

We have gone through the submissions made by both the parties. From the narration of facts and material placed before us we observe as under:-

The complainant is in possession of the said property after her marriage and the connection was released in her name on 27.05.2017. The complainant's father-in-law, Mother-in-law and her husband all were staying in the same premises.

Harshali *Yuv* *Am*

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The complainant has two sister-in-law namely Smt. Dhanesh Rani and Smt. Savita, both married and staying separately.

After the demise of complainant's husband, father-in-law and mother-in-law in 2019, her sister-in-law Smt. Dhanesh Rani w/o Sh. Prakash Chand and Smt. Savita w/o Sh. Vijay Kumar, has executed a registered GPA on dated 25.09.2019 in favour of Mohd Mehmood.

But the complainant is staying and in occupation of the property and enjoying all the rights and also paying the electricity bills till the electricity connection was in her name i.e. till November 2019.

From the month of December 2019, the complainant stopped paying the electricity bills because the respondent transferred her connection in the name of Mohd Mehmood, and complainant asked respondent to revert back the name change, but the respondent did not pay any heed to her complaints.

In the month of September 2020, the complainant approached the Forum for stay on disconnection on non-payment of the bill and reversal of name change. The connection was disconnected by the respondent after the stay granted by the Forum on 02.11.2020, but due to the intervention of the Forum the connection was again restored. Complainant is still submitting that she is ready to pay the electricity bills pending if the connection will be reverted back in her name. The name change done by the respondent is as per Regulation 17 (1) of DER (Supply code and Performance Standards) Regulations 2017.

As decided in Ashwini Kumar Maitri Vs. West Bengal Electricity Distribution Company and Ors. AIR 2009 Calcutta 37.

If the law of the land provides that a person in possession of any premises may not be dispossessed there from except in accordance with law, it is implicit that the possession of the person is protected till such time that an appropriate forum holds otherwise and the person is removed from the premises under due process of law. It would then defy reason to suggest that such person can

continue to be in possession but be denied an essential utility as electricity which is within the broad sweep of the right to life guaranteed under Article 21 of the Constitution.

Amarendra Singh vs Calcutta Electric Supply ... on 10 January, 2008

In view of the provisions in Section 43 of the Electricity Act, 2003, the appellant herein being the occupier is entitled to enjoy the electricity at the occupied portion of the premises in question.

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Abhimanyu Mazumdar & Others v/s The Superintending Engineer & Others
Whether unauthorized occupiers, encroachers of any premises and squatters of any premises are legally entitled to file an application under Section 43 of the Electricity Act, 2003 claiming status as 'occupier'. Then even an unauthorized occupier is entitled to get electricity connection in the same premises provided it shows that encroacher is in settled possession of the said premises.

As notified by the Ministry of Power, December 2020, issued a notification regarding the Indian Electricity Act 2003, it defines the definition of occupier
2. Definitions (k) as "occupier" mean the owner, tenant or person in occupation
of the premises where electricity is used or proposed to be used.

4. Release of new connection and modification in existing connection.-

(9) For new connections up to a load of 10 kW or such higher load as may be specified by the Commission, the application form shall be accompanied with only two mandatory documents- (1) identity proof (i.e. Passport, Aadhar Card etc.) of the applicant; and (2) proof of applicant's ownership or occupancy over the premises for which new connection is being sought or in the absence of any proof of ownership or occupancy, any other address proof not given as part of identity proof under (1) above. For new connections beyond the specified load, and modification of existing connection, the Commission shall explicitly specify the documents required to be submitted with the application.

Ganesh

Partha

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The Forum has directed the respondent in previous orders in the month of September 2020 in the name of Dr. Arunlata Aggarwal and Mr. Varun Negi to intimate the registered consumer before name change.

After going through all the material facts of the case, we are of considered opinion that the complainant is in possession/occupation since her marriage and after the demise of her mother-in-law and husband, she is still occupant of the same premises and using electricity and paid her bills regularly till November 2019 till the name change was done by the respondent.

As decided in above case laws, even encroacher is entitled for electricity connection and if Mohd Mehboob, purchased this property the sister-in-law of the complainant, he has every right to approach to the civil court for vacation of this property. And still the complainant is in possession of the above said premises she has every right to enjoy the electricity connection in her name.

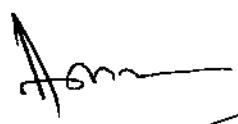
So, the respondent is directed:-

1. The name change done by the respondent in December 2019 should be reverted back in the name of complainant i.e. Ms. Poonam.
2. The complainant is directed to pay the electricity bill from November 2019 till date amounting to Rs. 56960/- which includes LPSC amount of Rs. 2829/-. The complainant is entitled to pay this amount because she consumed the electricity during the name change period.
3. Respondent is directed to waive off LPSC amount.
4. As directed earlier also, the respondent is again directed to intimate the registered consumer before name change.
5. Respondent is also directed to file compliance report within 30 days from the date of this order.

The case is disposed off as above.


(HARSHALI KAUR)
MEMBER (CRM)


(VINAY SINGH)
MEMBER (LAW)


(ARUN SINGH)
CHAIRMAN