

Consumer Grievance Redressal Forum

FOR BSES YAMUNA POWER LIMITED

(Constituted under section 42 (5) of Indian Electricity Act. 2003)

Sub-StationBuilding BSES (YPL) Regd. Office Karkardooma,

Shahdara, Delhi-110032

Phone: 32978140 Fax: 22384886

E-mail:cgrfbyp@hotmai.com

SECY/CHN 015/08NKS

C A No. 151687856
Complaint No. 01/2021

In the matter of:

Arshad HusainComplainant

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. Vinod Kumar, Counsel for the complainant
2. Mr. Imran Siddiqui, On behalf of BYPL

ORDER

Date of Hearing: 05th February, 2021

Date of Order: 08th February, 2021

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

Briefly stated facts of the case are that the respondent transferred dues amounting to Rs. 55028/- to the live connection of complainant.

The complainant submitted that he is using electricity vide CA No. 151687856 for domestic purpose with sanction load of 4 KW and the said connection was energized on 18.12.2015 in the name of Arshad Hussain. He further added that he is making payment of electricity dues as and when raised by the respondent. In the bill for the month of December 2019, the respondent transferred the dues

Complaint No. 76/2020

Amounting to Rs. 55028/- against his connection having CA No. 151687856. He approached the licensee for withdrawal of the said dues but all went in vain. He then approached PLA for Redressal of his grievance but withdraw his complaint on 06.11.2020. Therefore he approached the Forum for withdrawal of illegal transferred dues from his bills.

Notice was issued to both the parties to appear before the Forum on 05.01.2021.

The respondent submitted their reply stating therein that on 14.06.2019, they carried out site verification at 387, Second floor, Hauz Qazi Chowk, Delhi and found electricity was being used in disconnected portion through live connection having CA no. 151687856 in the name of Arshad Husain, which was installed after disconnected of CA NO. 100435609 in the name of Mohd Tahir on 15.12.2015. Notices were also sent to the complainant in this regard. After the site visits and notices he case has been proceeded for dues transfer and show cause notice was sent to the complainant on 21.10.2019.

Respondent further added that dues were transferred to live connection having CA No. 151687856 on 18.11.2019. It was further added that the complainant acknowledge the pending dues and accepted to pay the transferred amount in four equal monthly installments on 10.09.2020 and submitted post dated cheques amounting to Rs. 16000/-, from which some cheques were dishonored. Respondent also submitted that old cheques were issued by the same person Mr. Tazim Ahmed against both CA No. 151687856 (live connection) and also earlier issued cheque on 10.07.2014 against the disconnected connection CA No. 100435609.

The matter was heard on 05.01.2021, when respondent was directed to file full details of the case regarding NX/DX nature. Complainant moved an application for not to disconnect the electricity till final orders. Respondent was

Complaint No. 01/2021

directed to not to disconnect the supply of the complainant and complainant was also directed to pay the current bills regularly.

The respondent vide their mail dated 21.01.2021 submitted inspection report of tariff violation of previous connection having CA No. 100435609 in the name of Mohd Tahir, which clearly shows that second floor along with first floors were being energized by above CA NO. 100435609, where currently connection of Mohd Arshad Husain is installed.

The matter was finally heard on 05.02.2021, when arguments of both the parties were heard and matter was reserved for orders.

The main issue in the present complaint is whether the dues transfer to the live connection of the complainant is recoverable from the complainant or not.

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

That the connection having CA No. 100435609 of Mohd. Tazim Ahmed was supplying electricity to the first floor and second floor of the premises where the connection of Mohd Arshad is energized, therefore the dues transferred by respondent are recoverable.

- That the complainant before approaching the Forum settled the matter with respondent and issued cheques amounting to Rs. 16,000/-.
- That Mohd Tazim Ahmed is same person in whose name is the earlier disconnected connection with CA No. 100435609.
- Mohd Tazim Ahmed seems to be the owner/occupier of whole property because the connection is given in the name of Arshad on the basis of voter ID card and Ration card. No property papers were given by Arshad at the time of release of new connection.

Complaint No. 01/2021

- Mohd. Tazim Ahmed's connection was booked for theft and misuse of electricity on dated 14.03.2014 and 01.12.2014.
- It is a principal of justice that once the complainant entered into settlement with the respondent and issued cheques of settled amount, it seems to be settled.
- Complainant files the complaint before CGRF-BYPL for dues transfer by the respondent which is not recoverable from him.

As decided by the Hon'ble High court and Hon'ble Supreme Court, the energy dues cannot be waived off.

Paschimanchal Vidyut Vitran Nigam Limited Vs. DVS Alloy and Steel, AIR2010Delhi14, states that dues of the premises cannot disown the liability of paying the electricity dues, relating to the property purchased by them.

In BSES Rajdhani Power Limited Vs Saurashtra Color Tones Pvt. Ltd. & ors., 2006, Delhi Law Times page no. 213, stated as under:

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.

As held by Hon'ble Supreme Court in 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.

As held by Kerala High Court, in the matter of A.Ramachandran Vs. KSEB, AIR 2001, Kerala 51 and Seena B. Kumar Vs. Assistant Executive Engineer, AIR 2004, Kerala 68, in which it was held that under section 79 (j) of the

Complaint No. 01/2021

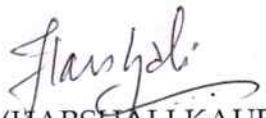
Electricity Supply Act, 1948, the Kerala Electricity Board had framed Regulation 15 (d) which provided that all the dues to the Board from a consumer shall be charged on the asset of the consumer and hence can be realized as arrears of land revenue.

In view of the above material facts, we are of the considered opinion,

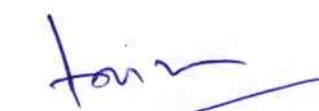
- That the complainant is liable to pay the transferred dues of disconnected CA NO. 100435609, in the name of Mohd. Tahir.
- Respondent is directed to ~~re~~consider the LPSC amount at the time of making the payment of transferred dues by the complainant.

Accordingly, case is disposed off as above.

Compliance report to be submitted by the respondent within 30 days from the date of this order.


(HARSHALI KAUR)
MEMBER (CRM)


(VINAY SINGH)
MEMBER (LAW)


(ARUN P SINGH)
CHAIRMAN