

C A No. Applied For
Complaint No. RA 08/2023

In the matter of:

AyeshaComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

1. Mr. Nishat A Alvi, Member (CRM)
2. Mr. P.K. Agrawal, Member (Legal)
3. Mr. S.R. Khan, Member (Technical)
4. Mr. H.S. Sohal, Member

Appearance:

1. None present on behalf of the complainant
2. Ms. Ritu Gupta, Mr. R.S. Bisht, Mr. Tarun Anand, Ms. Shweta Chaudhary & Ms. Chavi Rani, On behalf of BYPL

ORDER

Date of Hearing: 04th July, 2023
Date of Order: 17th July, 2023

Order Pronounced By:- Mr. Nishat A Alvi, Member (CRM)

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Secretary
CGRF (BYPL)

OP has filed the present application against the order dated 04.05.2023 passed by this Forum. Ground for review as shown in the application is that after passing of the order in complaint no. 69/2023 the OP is able to lay its hand on a crucial evidence in the form of complainant's Aadhar Card, whereby her relationship with the defaulters of other disconnected connections is established.

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As per applicant discovery of this new evidence, which could not be placed on record at the time of order due to it having no knowledge thereof is very important matter to be considered by review of the order under consideration.

Review applicant states that after passing of this order its field executive went to subject premises to get additional information so as to establish the fact that premises though numbered differently were the same and all the parties concerned are linked with one another. ✓

As per applicant on revisit the executive met the complainant from whom by playing a trick, he was able to obtain copy of her Aadhar Card. This Aadhar Card bears the name of her husband by the name of Mustaqim while in copy of Aadhar card placed on record of the complaint, column of husband is vacant. Similar is the case with the copy of Aadhar, submitted by the complainant with OP while applying for the connections concerned.

To substantiate this fact applicant has also mentioned herein chain of transfer of dues. According to which originally a connection at premises no. 188, FF, Khasra No. 228, Gate no. 8, Chauhan Bangar, Near Kuresh Masjid, Delhi-110053, was energized in the year 2014 in the name of said Mustaqim-husband of the complainant due to outstanding dues in a sum of Rs. 1,53,200/- his connection was disconnected. Prior to this disconnection Mustaqem's brother-Salman got another electricity connection by giving a different address being A-166, old no. 9/1, Gali No. 10, Khasra No. 228, Chauhan Bangar, New seelampur, Delhi. OP transferred Mustaqem's dues on Salman's connection. This Salman also became defaulter and his outstanding being Rs. 3,53,227.66/- including Mustaqem's amount of Rs. 1,53,280/- are transferred on the connections of the complainant under consideration, which connection have also since been disconnected, on non-payment of outstanding of dues. Reasons shown for transfer of dues are that all the three are related to each other. As

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Salman is Mustaqeem's brother and complainant is Salman's sister-in-law being Mustaqeem's wife. As per applicant all the three are members of one and the same family and intentionally taken these all connections by showing different addresses in different names concealing their relationship. In support of this argument review applicant also states that the connections under consideration were taken by complainant, concealing her husband's name, as daughter of Mr. Din Mohammad, while the supply address is the same her husband earlier got connection on. To sum up review applicant submits that all the three defaulters are members of one and the same family and actually the supply address of all the connections are either the same or adjacent to one another.

Now out of the pleadings we have to find out a fact which would be basis of maintainability of the present review petition. The review has been filed under Regulation 19 of DERC (Consumer Grievance Redressal Forum and Ombudsman) Regulations 2018, which reads as under:-


19. Power to Review

(1) Any person may file an application for review before the Forum, upon the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was passed or on account of some mistake or error apparent from the face of the record, within thirty (30) days of the date of the order, as the case may be.

(2) An application for such review shall clearly state the matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was passed or the mistake or error apparent from the face of the record. The application shall be accompanied by such documents, supporting data and statements as the Forum may determine.

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(3) When it appears to the Forum that there is no sufficient ground for review, the Forum shall reject such review application:

Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.

(4) When the Forum is of the opinion that the review application should be granted, it shall grant the same provided that no such application will be granted without previous notice to the opposite side or party to enable him to appear and to be heard in support of the order, the review of which is applied for.

Thus, as per this provision a review can be filed on two grounds.

- (i) Upon discovery of new and important matter or evidence
- (ii) On account of some mistake or error apparent on the face of record.

The Regulation further explains that the new and important matter so discovered must be such as was either not in the knowledge of the review applicant, or the same could not be produced by him before the Forum, Regulation further puts a condition on ignorance of a particular fact and inability to produce the same. The condition states that the knowledge of such evidence or inability to produce the same must be such as the review-applicant was not able to gain or was not able to produce, even after exercise of due diligence. Meaning thereby if after exercise of due diligence, the said knowledge could be acquired or said evidence could be produced on or before passing of order, then this ground for review is not maintainable. Here, in the present case review-applicant itself states that after passing orders its official tried to find out a fact and got it. This exercise could be done earlier also which applicant later on exercised and got knowledge of the fact.

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In the aforesaid facts and circumstances Plea of the chain as produced in review cannot be taken as such evidence.

Thus this ground of review is not available to the applicant/OP.

Regarding Judgment titled Green view Tea and Industries Vs Collector, Salaghat, Assam dated 17.02.2004 also does not support OP, as it relates to fresh evidence only.


Regarding other facts, as aforesaid mentioned in brief review-applicant seems to prefer appeal of the order in the guise of review which is not permissible in the light of established provisions of law.


Hence, review having no merits/ground is hereby rejected with the direction to comply the orders as directed in the interest of justice.

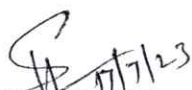
The case is disposed off as above.

No order as to the cost. Both the parties should be informed accordingly. File be consigned to Record Room.


(H.S. SOHAL)
MEMBER


(NISHAT A. ALVI)
MEMBER (CRM)


(P.K. AGRAWAL)
MEMBER (LEGAL)


(S.R. KHAN)
MEMBER (TECH)

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