



C A No. Applied For
Complaint No. 360/2023

In the matter of:

Deekak RanaComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

1. Mr. P.K. Singh, Chairman
2. Mr. Nishat Ahmed Alvi, Member (CRM)
3. Mr. P.K. Agrawal, Member (Legal)
4. Mr. S.R Khan, Member (Tech.)
5. Mr. H.S. Sohal, Member

Appearance:

1. Mr. Imran Siddiqui, Counsel of the complainant
2. Ms. Ritu Gupta, Ms. Shweta Chaudhary & Ms. Chavi Rani, on behalf of respondent

ORDER

Date of Hearing: 15^h February, 2024
Date of Order: 15^h March, 2024

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

for Nishat
Attested
Secretary
CGRF (BYPL)

1. Present complaint is filed by the complainant on the behalf of the consumer Shri Nitil Kumar. By way of the present complaint, the complainant has sought withdrawal of the dues transferred on the connection of the consumer bearing CA No. 154063239. It is further stated by the complainant that when he applied for new connection in

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premises no. MB-150A, Gali No. 5, Master block, Shakarpur, Delhi-110092, he was required to pay a bill of Rs. 2,39,500/- against which he approached the office of the licensee and the said bill of Rs. 2,39,500/- was revised and reduced to Rs. 24530/-. The revised bill amount was duly paid by him and electricity connection was released by OP vide CA No. 153713221. Now OP has illegally transferred the balance amount of Rs. 2,14,970/- to his live connection. Complainant has prayed for the direction for removal of dues illegal and wrong dues so transferred.

2. On notice OP in its reply briefly stated that complainant applied for new connection which was energized on 16.03.2022 vide CA No. 153713221. At the time of release of new connection the complainant was asked to clear outstanding dues. On his request the connection was released on part payment of Rs. 24,530/-. However, the balance amount remained due. Thereafter, the said connection was transferred in the name of Sh. Nitil Kumar the present consumer vide CA number 154063239.

OP further added that the disconnected connection was registered in the name of complainant and the said connection was M case connection i.e., case of unbilled meter. The said meter was found existing at subject premises with consumption of approximately 70,000 units. On being found the meter was taken in billing network in the form of CA No. 154063239 i.e., the disconnected connection. The connection was disconnected on account of outstanding dues of Rs. 2,39,500/- on 26.02.2021. Thereafter, the consumer made payment of Rs. 24,530/- as a consequence dues outstanding against disconnected connection are of Rs. 2,14,970/-.

Seal: 

for
Shakarpur
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3. In this reply, OP has also challenged the Locus Standi of the complainant to file the present complaint, stating that the complainant is neither the owner of premises in question nor the user or consumer of said electricity connection. Thus complainant does not fulfill the definition of complainant as per DERC (Forum for Redressal Grievance of the Consumers and Ombudsman) Regulation, 2018. Hence, the complaint filed by him is not maintainable.
4. In rejoinder to reply complainant specifically denied his liability of this invalid meter no. 207984, as the same is told installed in the year 2001. While the complainant became owner of the property only in the year 2019. Rejoinder further states that at the time of purchase of subject premises there existed an electricity connection vide CA No. 151321840. However, bill of the connection was issued for wrong floor i.e. third floor of the premises. When complainant approached OP for correction of the floor in the bill and mutation of his name in place of previous owner, OP asked him to surrender the connection and apply for new connection. On his application for new connection he was asked to clear alleged dues of Rs. 2,39,500/-. On his protest the bill was revised for Rs. 24,530/- . Having no option complainant had to pay this revised amount, which he so paid. Against this payment OP released new connection in favor of complainant in year of 2022. Rejoinder further states that despite taking Rs.24,530/- for releasing new connection OP has illegally made the present transfer of outstanding of the remaining dues in violation of the provisions of the Electricity Act 2003 and the Supply Code of 2017. This transfer is barred by the principle of estoppel. Rejoinder further states that bill placed on record of CA No. 151321840 and inspection report dated 02.02.2022 clearly show that transferred dues do not pertain to the subject premises. Rejoinder also denied any undertaking on behalf of the complainant, for the balance of the alleged outstanding.

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Secretary
CGRF (BYPL)

for
Ahmed

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Regarding Locus Standi complainant has placed on record Authority letter of the consumer in his favor.

Rejoinder denies any request of part-payment by him for balance, further stating that, this revised amount too, he was forced to pay as he had no option to get the connection.

5. Both the parties placed on record documents in support of their respective contentions.
6. Heard and perused the record.
7. As per pleadings first of all the locus standi of the complainant to file this complaint is challenged. As per OP the complainant is not covered under the definition of complainant under relevant provisions of Law. In this respect Regulation 3(4) of DERC(Forum for Redressal of Grievances of the Consumers and Ombudsman) Regulations 2018 is relevant which says
3(4) "Complainant" means—
 - (i) a consumer as defined under clause (15) of Section 2 of the Act; or
 - (ii) an applicant for a new electricity connection; or
 - (iii) in case of death of a consumer, his legal heir(s) or authorised representative ; or
 - (iv) Any other person claiming through or authorized by or acting as agent for the consumer and affected by the services or distribution business carried out by the distribution licensee.

The complainant has placed authority letter of consumer in his favour as well as he is affected person as actually the alleged transferred outstanding is shown against his connection which is now changed in present consumer's name. Hence being covered under clause (iv) above, the complainant is very well entitled to file the present complaint.

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A. L. G. S.

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8. Further complainant is challenging outstanding claimed on two counts

- (i) The outstanding transferred does not belong to him.
- (ii) Even if OP's claim is correct it is estopped from raising the demand.

9. Regarding 1st issue, it is the outstanding of Rs. 2,39,500/- itself which was initially billed by OP. This bill is based on the finding of unbilled meter, which OP claims to be of the complainant's connection. Thus there seems no point in considering the same as supplementary bill and relevant provision in this regard. It is pertinent to note that this consumption in the meter is shown of the period 2001 to 2019. While complainant states that he purchased the premises in the year 2019 only. Complainant required OP to provide documents showing that complainant was having alleged connection in the year 2001, which OP failed to provide. OP alleges that connection vide another CA No. 153713221 was disconnected on 26.02.2021 on account of outstanding. However, there is no bill/notice if so issued on this connection requiring to pay any outstanding to avoid disconnection, so made on 26.02.2021. Further OP has released new connection by receiving only an amount of Rs. 24,530/- that too without any undertaking for alleged balance. In the light of aforesaid facts the outstanding itself is disputed and unless this dispute is resolved, it is useless to consider OP's right and complainant's liability under the Provisions of the Electricity Act 2003 and the DERC (Supply Code and Performance Standards) Regulations 2017 and the cases referred to by the OP, as they deal only cases of admitted liability/outstanding.

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All these facts require detailed evidence to be proved, which this Forum is not competent enough to conduct in this Summary Procedure.

Regarding second challenge relevant provision is Regulation 17 (iii) of DERC (Supply Code and Performance standards) Regulations 2017. Which is as follows:

Regulation 17 (iii) The request for transfer of connection shall not be accepted unless all recoverable dues in respect of the concerned connection are fully paid:

Provided that once connection is transferred, no dues / arrears shall be recovered from the new consumer.

10. Here in the present case the connection has been changed in the name of consumer from the complainant, without claiming/receiving any outstanding whatsoever. Hence, as per aforesaid Regulation OP is barred from claiming the alleged outstanding at this stage.

11. We also observe that this new connection in the name of the complainant is infact a matter of name change, after he purchased subject premises in the year 2019, and it was only on wrong advice of OP that new connection was applied for. In that case again Regulation 17 (iii) aforesaid is applicable and OP is barred from claiming the alleged dues.

12. On the basis of aforesaid findings the transfer of Rs. 2,14,970/- on CA No. 154063239 is not supported by the relevant provisions of the Electricity Act 2003 as well as DERC(Supply Code and Performance Standards) Regulations 2017, However, OP is not precluded from raising its claim by restoring to other modes of recovery of electricity dues/arrears as available to it in other Courts of Competent Jurisdiction.

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ORDER


The complaint is allowed with the terms that as per Regulation 17 (iii) of DERC (Supply Code and Performance Standards) Regulations 2017, OP is barred to raise the issue of outstanding, if any. Hence, OP is directed not to take any coercive action against the present connection vide CA No. 154063239 in the name of Nitil Kumar, installed at premises no. MB-150A, Gali no. 5, Master Block, Shakarpur, Delhi-110092.


The case is disposed off as above. File be consigned to record room.

Both the parties should be informed accordingly.


(S.R. KHAN)
MEMBER -TECH


(P.K. SINGH)
CHAIRMAN


(P.K AGRAWAL)
MEMBER -LEGAL


(NISHAT AHMAD ALVI)
MEMBER-CRM

on leave
(H.S. SOHAL)
MEMBER

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for
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CGRF (BYPL)