



C A No. 152105121  
Complaint No. 41/2020

In the matter of:

Mr. Malaya Kumar Chand ..... 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. Malaya Kumar Chand, Complainant
2. Mr. Imran Siddiqi, On behalf of BYPL

ORDER

Date of Hearing: 22<sup>nd</sup> December, 2020

Date of Order: 24<sup>th</sup> December, 2020

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

Briefly stated facts of the case are that the respondent allegedly increased sanctioned load from 4 KW to 8 KW without serving him any notice.

The complainant in his complaint states that he got his name changed after which the respondent increased the sanctioned load to 8 KW from initially sanctioned 4 KW and that too without serving him any notice. He also added that the respondent illegally extorted amount from him in the grab of increased sanctioned load.

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The complainant made complaint, mainly on two points, first is regarding non-grant of subsidy by the respondent as prescribed by GoNCTD vide order no. F.11(111)2012/Power/Vol.....III/2098 dated 07.08.2019, by non calculation of reading within 30 days. It was further his submission that his bill with due date 24.12.2019 was for 32 days for 214 units, had it been calculated for 30 days, he would have received benefit of Government subsidy.

Secondly, the respondent increased the sanctioned load from 4 KW to 8 KW without serving any notice to him. He made visit to the office of respondent and was assured that the load enhancement would be reverted, but the bills he Received were on basis of enhanced load. Finally in February 2020 he applied for load reduction.

Therefore, he requested the Forum to direct the respondent for rectification and reduction of sanctioned load from 8 KW to 4 KW, from the date of illegal load enhancement and refund of extra bill amount paid by him. He also requested for benefit of 200 units as per GoNCTD orders and stay on disconnection till disposal of his complaint by the Forum.

Notices were issued to both the parties to appear before the Forum on 04.09.2020.

Respondent company submitted their reply stating therein that the load of the connection of the complainant was enhanced as per law as duly provided under the Delhi Electricity Supply Code and Performance Standard Regulations 2017. The name of the connection of the complainant was changed on 05.02.17 and the load was enhanced on 10.06.2014, from 6 KW to 8 KW. It was also their submission that request for load reduction was made by the complainant on 26.02.2020 and for processing request of the complainant for load reduction; latest bill needs to be paid. As the latest bill of the complainant was unpaid, the request was rejected.

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The respondent also submitted that he complainant had not paid electricity bills since December 2019 and the latest unpaid bill is amounting to Rs. 7670/- including arrears of Rs. 7491.82/-.

The details of the bills of the complainant from 02.11.2019 to 04.12.2019 (bill period 32 days 28 days from November and 4 days from December) slab calculation is as follow:

$200 \times 28 / 30 + 200 \times 4 / 31 = 212.40$ , since consumer consumed 214 units, therefore he is entitled for 201-400 units/month and get subsidy Rs. 800/month, accordingly, the complainant got subsidy of Rs. 849.89 for 32 days.

On hearing dated 04.09.2020, the respondent was directed to file clarification regarding subsidy and load enhancement, and also to file three years statement of energy consumption and load details.

The complainant submitted his rejoinder refuting therein the contentions of the respondent as averred in their reply and reiterated his original complaint.

The complainant also submitted his written arguments where he submitted soon after change of name, the sanctioned load was increased to 8 KW from initial load of 4 KW, without any notice and illegal amount was extorted by the respondent. Secondly, non grant of subsidy by deliberate non calculation of reading within a month as prescribed by GoNCTD vide order no. F.11(111)2012/Power/Vol.\_III/2098 dated 07.08.2019. Bill with due date 24.12.2019 was for 32 days and 214 units, had it been calculated for 30 days/within a month, reading would have less than 201 units, he would be benefited with the subsidy scheme of GoNCTD:

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He further submitted that as per GoNCTD order, those who fall under 201-400 unit consumption, 1/2 subsidy can be granted, however even otherwise after calculating for the month his consumption comes under 201 units, hence, he is entitled for 100% waiver for the bill with due date 24.12.2019.

He also submitted that the respondent filed the written statement with bundle of lies knowing well that despite of wrong statement and forged documents to deprive the complainant this Forum is not going to proceed u/s 340 Cr.P.C against the respondent. Reserving all the rights to proceed u/s 340 Cr.P.C.

It was also his submission that as per principles of Estoppel and Acquisition, he is entitled for the benefit as his consumption is than 201 units. Further, respondent has not replied with regard to demand of excess amount of bill against his CA number for less consumption, in comparison to the other CA no. 150523047 in name of Sunita Sodhi in the same building for more consumption. In hostile discrimination and against Article 14, 16 and 19 of Constitution the respondent have increased sanction load and in pick and choose policy have been extorting from complainant.

On 09.10.2020, both the parties sought adjournment for exploring the possibility of amicable settlement. On next date of hearing i.e. on 23.11.2020, the respondent filed revised bill amounting to Rs. 0/- and also submitted that the enhanced load against the connection of the complainant has been reduced. The complainant was not fully satisfied with this and seeks time to submit more arguments.

The complainant again submitted his written arguments, where again he reiterated his original complaint and earlier written submissions. He also submitted that there is no explanation of respondent what prohibits them from non taking of reading within a month.

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The complainant also filed application u/o XII Rule.6 and U/O XV Rule I, R/W 151 CPC on the admission of the respondent. As such the complainant deserves to be allowed on settled law and as enunciated by the apex court in its catena of judgment.

The matter was finally heard on 22.12.2020, when arguments of both the parties were heard and matter was reserved for orders.

The issue in this complaint is whether the complainant is entitled for subsidy or not.

It is pertinent to mention here that complainant has mentioned Section 340 in The Code Of Criminal Procedure, 1973 along with under order XII Rule 6 and under order XV Rule 1, which are reproduced here under:-

Order XII Rule 6

*"(1) Where admissions of fact have been made either in the pleading or otherwise, whether orally or in writing, the Court may at any stage of the suit, either on the application any party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may think fit, having regard to such admissions.*

*(2) whenever a judgment is pronounced under sub-rule (1) a decree shall be drawn up in accordance with the judgment and the decree shall bear the date on which the judgment was pronounced."*

**Rule 1 Order XV of Code of Civil Procedure 1908 "Parties not at issue"**

*Where at the first hearing of a suit it appears that the parties are not at issue on any question of law or of fact, the Court may at once pronounce judgment.*

In this regard, it is submitted that this Forum is not bound to follow CrPC the CPC as laid down in DERC (Forum for Redressal of Grievances of the Consumers and Ombudsman) REGULATIONS, 2018 Regulation 15(16) which is narrated below:-

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**15. Grievance Handling Procedure of the Forum**

16. The Forum shall not be bound to follow the procedure prescribed in the Civil Procedure Code 1908(Act 5 of 1908) and subject to these Regulations, the Forum may evolve procedure conforming to the principles of fair play and natural justice for efficient discharge of its functions.

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:-

Many State Electricity Regulatory Commission, Regulations have specific provision that load reduction shall be granted only after dues are paid by the consumer. Though there is no such specific provision for load reduction in the DERC Regulations 2017, yet the term and conditions of the agreement between consumer and respondent requires that consume should pay their bills regularly, hence respondent ask the complainant for payment of dues before affecting load reduction was not totally against law/rules. However, the respondent has resolved this issue and load has been reduced to 3 KW and the same is reflecting in the electricity bills being issued by the respondent.

The issue of subsidy raised by the complainant has also been deeply looked into and found that the subsidy given by the respondent is as per DERC tariff order no.F.3(211)/Tariff/DERC/2007-08/4885 dated 20.03.2008 which is in continuation of order of GoNCTD order no. F.11(08)/2008/Power/656 dated 20.03.2008, in which it is clearly mentioned at point (b) *for all domestic consumers consuming upto 150/200 units of power per month*. The GoNCTD again vide their order no. F.11(111)/2012/Power/Vol-III/1417-1427 dated 20.04.2020 has extended this scheme further.

The consumption pattern as per meter readings is as under:

05.10.2019 to 02.11.2019 (28 days)	255 units
02.11.2019 to 04.12.2019 (32 days)	214 units

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On the basis of above 30 days consumption for November 20, may be calculated as under

(i) 2 days proportionate consumption on the basis of bill for October (05.10.2019 to 02.11.2019)

(ii) 28 days proportionate consumption on the basis of bill for November (02.11.2019 to 04.12.2019)

=  $255 \times 2 / 28 + 214 \times 28 / 32 = 205.4$  units


Regarding admissibility of Subsidy, the respondent has clarified with detailed calculations and applicable subsidy of Rs. 849.89 for 32 days bill (02.11.2019 to 04.12.19) has been granted in the bill. Even if we consider complainant's submission for considering consumption for the month of November 30 days only, then as per calculation above the consumption is 205.4 units and pro-rata consumption on the basis of bill (for the period 02.11.2019 to 04.12.2019) is  $214 \times 30 / 32 = 200.625$  units, which is more than 200 units in every case, hence the advantage/subsidy for less than 200 units as per GoNCTD order cannot be allowed.

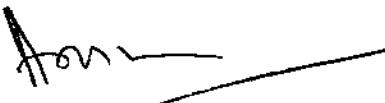
Next slab for subsidy is 201-400 units. Since complainant's consumption by every calculation is more than 200 units and does not qualify for subsidy as per less than 200 units slab, however as per law of approximation also 200.625 units may be considered as 201 units and accordingly available benefit of Rs. 849.89/- subsidy has been granted to the complainant, which is correct.

Therefore, in our considered opinion, the complainant is not entitled for any further subsidy.

The case is disposed off as above.

  
(HARSHALI KAUR)  
MEMBER (CRM)

  
(VINAY SINGH)  
MEMBER (LEGAL)

  
(ARUN P SINGH)  
CHAIRMAN