



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  
Phone: 32978140 Fax: 22384886  
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SECY:CHN/015/08NKS

C A No. 101539161  
Complaint No. 65/2019

In the matter of:

Shaista Parveen .....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. The Complainant
2. Mr. Imran Siddiqi, Mr. Achal Rathi, Mr. B.B. Sharma and Mr. Subhash Chand, On behalf of BYPL

ORDER

Date of Hearing: 25<sup>th</sup> November, 2019  
Date of Order: 28<sup>th</sup> November, 2019

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

The complainant lodged a complaint in CGRF regarding illegal dues transfer against her connection. It was her submission that CA No. 151539161, in name of her deceased husband is installed in her premises no. D-2/276, Khasra No. 324/1, Main 25 futa road, Nehru Vihar, Karawal Nagar, Delhi-94.

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It was also her case that the respondent company issued her a false and fabricated bill amounting to Rs. 2,51,610/- and thereafter upon non-payment of the said illegal bill disconnected her electricity supply. She also stated that she is a widow lady and not in a position to pay the said huge bill as she has no source of income.

She further added that she is ready to pay the correct revise bill. She requested the Forum to direct the respondent company to waive off the bill of Rs. 2,51,610/- and issue her a correct bill.

Notice was issued to both the parties to appear before the Forum on 30.10.19. The respondent has filed a reply on dated 30.10.19 as under:-

The present complaint is liable to be dismissed as the current outstanding dues are payable by the complainant. It was further their submission that an electricity connection vide CA No. 101457095 was installed on 28.08.2010 at D-2/276, Kh. No. 324/1, Main 25 ft Road, Nehru Vihar, Karawal Nagar, Delhi-94, in the name of Mohd Zafruddin which was disconnected on 03.11.2017 due to non-payment of dues amounting to Rs. 2,36,009.10/-. Respondent also stated that at the time of applying for new connection Mohd Zafruddin also filed a NOC issued by Mohd Ayub (deceased husband of the complainant) in favour of Mohd Zafruddin.

Respondent did two site visits on 24.09.2018 and 29.10.2018 and it was found that the disconnected connection having CA No. 101457095 was now provided electricity through live connection in the name of Mohd Ayub having CA No. 101539161. Accordingly, the registered consumer of the live connections were served with notices dated 03.10.18 in terms of DERC Supply code and Performance Standards Regulations 2017, whereby the consumer was issued a demand notice for the amount and was asked to visit office of the respondent.

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However, none approached the office of the respondent, thereafter the dues amounting to Rs. 2,36,009.10/- were transferred to the live connection in the name of Mohd Ayub having CA No. 101539161. It was also submitted that after 11.12.2018, the complainant has not paid her regular electricity bills against CA no. 101539161.

The respondent company submitted their written submissions and stated that the electricity connection of the complainant was energized on 1.08.2007 vide CA No. 101539161 under non-domestic category in the name of Mohd. Ayub S/o Mohd Fayyaz. The said connection is still live having electricity dues of Rs. 2, 96,610/- inclusive of LPSC of Rs. 12,067.25.

Another electricity connection was energized on 28.08.2010 vide CA No. 101457095 under domestic category in the name of Mohd Zaffruddin, s/o Mohd Fayyaz. The said connection was disconnected on 03.11.2017 due to non-payment of electricity dues amounting to Rs. 2,36,009.10/- inclusive of LPSC of Rs. 39,920.14. The said dues were transferred on 11.12.2018 to the live connection of Mohd Ayub having CA No. 101539161.

There is one more electric connection in the name of Mohd. Ayub which was energized on 05.07.2012 vide CA No. 150455580 under domestic category. The said connection was disconnected on 09.12.2014 due to non-payment of dues of Rs. 1,22,553.46/- inclusive of LPSC amounting to Rs. 4,744.69. The said dues were transferred on 03.03.16 to the live connection of Mohd Zafruddin having CA No. 101457095,

Respondent stated that they adopted the procedure of transfer of dues in this case as per the provision of section 56 (2) of Electricity Act 2003, which is reproduced as under:-

*56 (2) notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due*

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*unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.*

During the course of hearing the respondent was directed to provide the energy consumption charts of units consumed by three connections having CA no. 150455580, 101457095 & 101539161 and last date of payment by the complainant. The complainant was also directed to supply address of Mohd Zafruddin.

It is pertinent to mention here that during the course of hearing it was noticed that the complainant is not paying the current demand of CA No. 101539161 in the name of Mohd. Ayub since January 2019 and the connection is still running. The dues from January 2019 till date are approximately Rs. 43,000/- from which the complainant was asked to pay/deposit Rs. 25,000/- as part payment.

On last date of hearing it was noticed that the complainant did not pay/deposit the part payment of Rs. 25,000/- as per the orders of the Forum. It is also pertinent to mention here that the last payment made by the complainant was of Rs. 7850/- dated 11.12.18. She also submitted address and contact number of Mohd Zafruddin and Commercial Officer of the respondent talked to Mohd Zafruddin and he stated that he left the premises in the year 2011 and the dues are related to Mohd Ayub and his wife.

During the course of hearing the respondent was asked to file the K.No. files of all the connections in the premises. The respondent submitted the K.No. files and from the perusal of the files it was revealed that the property is owned by both the brothers namely Mohd Ayub and Mohd Zafruddin vide notarized GPA dated 23.05.2010 in their favour by Smt. Sabana wife of Sh. Babu Hassan. And both the brothers have given 'No-objection Certificate' for granting connection to each other. But these 'NOC' does not clearly show the date of

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filing the affidavit. Respondent was directed to file a supportive affidavit in respect of the document at the time of granting a connection to Mohd Zafruddin and Mohd Ayub are true which were filed by them at the time of applying for new connection. The respondent filed the said affidavit on 26.11.19.

During the course of arguments the complainant stated that she is the registered owner of the property but failed to show any documents in support of her contention. It was also her submission that after demise of Mohd Ayub she got married to Mohd Javed Akhter.

Issue in the present case is that whether the transferred amount of Rs. 2,90,610/-are recoverable from the complainant or not. Secondly, the Dues transferred by the respondent are legal or arbitrary.

We have gone through the submissions made by both the parties from the narration of facts and argument before us we find as follow:-

As per DERC Guidelines 2017, Section 42, sub-Para(1), para (3) and para (4) regarding recovery of arrears, which are reproduced here as under:-

- (1) *The Licensee shall indicate all outstanding amounts whatsoever on account of demand note, assessment bills, interest or Late Payment Surcharge, as the case may be, till the date of bill raised etc. separately as arrear in the regular bill.*
- (2) *The Licensee shall be entitled to recover arrears of charges or any other amount due from the consumer along with interest or Late Payment Surcharge, as the case may be, at the rates applicable for delayed payments from the date on which such payments became due.*
- (3) *Subject to Section 56 (2) of the Act, if the consumer fails to remit the amount of arrears with interest or Late Payment Surcharge, as the case may be, by the due date indicated in the bill or in the demand notice, the*

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*Licensee may disconnect the supply of electricity after giving notice and initiate proceedings for the recovery of the arrears in accordance with the relevant legal provisions.*

After going through all the details of Section 56 (2) of the Indian Electricity Act 2003 which is reproduced here:-

*—56 (2) notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.*

56(2) of the Indian Electricity Act 2003 defines, that the arrear/energy charges of consumed electricity is recoverable if it is continuously reflecting in the electricity bill raised by the respondent. In the present case the respondent is reflecting the arrear/energy charges continuously permanent disconnection of both the connections.

*As decided in the matter of Tata Steel & Ors Vs Jharkhand State Electricity on 11.09.2007, 56(2), of the Indian Electricity Act 2003, the High Court of Jharkhand held that bill cannot be said to be hit by the provision of 56 (2) of electricity Act 2003 and it cannot be said to be barred under the provisions of the Act. It is also noticed that Delhi high Court Case in name of H.D. Shourie Vs Municipal corporation of Delhi & Ors. Has also the same view. After going through the impugned decision of Delhi High Court in AIR 1987 Delhi 219, we are of the view that the consumer consumes electric energy, he becomes liable to pay the charges of such consumption but thereafter the board raises the bill as per the tariff making specific demand from the consumer on the payment of the amount of the consumption of electric energy.*

As decided by the Hon'ble High Court of Delhi in their order dated 09.07.2012 in the matter of Raj Kumar Vs BSES Yamuna Power Limited by Hon'ble Justice G.S. Sistani wherein it was held as follow:-

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Wherein it has been held that stipulation by the distributor that the dues in regard to the electricity supplied to the premises should be cleared before electricity supply is restored or a new connection is given to a premises, cannot be termed as unreasonable or arbitrary; and in the absence of such a stipulation, an unscrupulous consumer may commit defaults with impunity, and when the electricity supply is disconnected for non-payment, may sell away the property and move on to another property, thereby making it difficult, if not impossible for the distributor to recover the dues, no relief can be granted to the petitioner herein. It is clear that where there statutory rules governing the conditions relating to sanction of a connection for rules governing the conditions relating to sanction of a connection for supply of electricity, the distribution company can insist upon prior fulfillment of the requirement of such rules and regulations before granting a fresh connection. Even if the rules are silent, it can stipulate such terms and conditions as it deems fit and proper to regulate its transaction and dealings. So long as such rules and regulations on terms and conditions are not arbitrary and unreasonable, the Courts will not interfere with them. Accordingly the present petition cannot be entertained, since the large amounts are due by the owner of the property to the respondent and respondent has rightly rejected the application of the petitioner.

In the matter of Izhar Ahmad &Anr. Vs BSES Rajdhani Power Limited, dated 02.03.2009 by Hon'ble Justice Manmohan:-

8. The intent of such a regulation is to ensure that electricity companies do not have to 'run around' to recover their dues and any person who applies for re-connection makes payment of all dues including surcharges and payment of fraudulent abstraction charges before grant of new connection or reconnection of the said premises.

9. Further, in my opinion, judgment of Division Bench of this Court in Madhu Garg is very categorical and it has even considered judgment of the Hon'ble Supreme Court of India in Isha Marbles vs. Bihar State Electricity Board

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*reported in 1995 (2) SCC which was also referred to by Mr. S.D. Ansari, Advocate, during the course of his argument. Consequently, petitioners/owners of premises have to clear all outstanding including payment of direct theft bills.*

By Hon'ble Supreme Court of India, in the matter of Paschimanchal Vidyut Vitran Nigam Ltd. & Ors. Vs M/s. DVS Steels & alloys Pvt. Ltd & Ors. By Hon'ble Justice R.V. Raveendra, J.

*12. In this case, when the first respondent who was the purchaser of a sub-divided plot, wanted a new electricity connection for its premises, the appellant informed the first respondent that such connection will be provided only if the electricity dues are paid pro-rata. They were justified in making the demand. Therefore, it cannot be said that the collection of Rs. 8,63,451/- from first respondent was illegal or unauthorized. It is relevant to note that when the said amount was demanded and paid, there was no injunction or stay restraining the appellant from demanding or receiving the dues.*

In view of above discussions it is held that recovery of the impugned bill cannot be said to be hit by such Section 56 (2) of the Electricity Act 2003 and cannot be said to be unrecoverable and barred under Section 56 (2) of the said act.

As per above stated judgments of the Hon'ble High Court and Hon'ble Supreme Court as cited above, we are of the opinion that the amount is recoverable from the complainant as the dues are on the premises and recoverable from the occupant/occupier.

That the complainant is not a registered consumer. The connections were in the name of deceased husband of the complainant Mohd Ayub and Mohd Zafruddin (brother of the husband of the complainant), but presently she is the occupant of the Ground, First and Second floor of the premises no. D-2/276, Kh. No. 324/1, Main 25 ft Road, Nehru Vihar, Karawal Nagar, Delhi-94, whole

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building. The complainant is running a grocery shop and enjoying the all rights of the property after demise of her husband. She is also enjoying electricity since 2010 by the two disconnected connections having CA No. 101457095 in the name of Mohd Zafruddin and CA No. 150455580 in the name of Mohd Ayub and without paying the electricity dues. After going through all the facts we are of the opinion:-

- That the dues transferred by the respondent company are correct and recoverable from the complainant because she is staying in the same premises and enjoying all the rights of the property. Every consumer is entitled to pay the electricity charges consumed by them and dues are on the premises not on the individual.
- That the complainant is liable to pay the transferred amount of the two disconnected connections and one live connection which is providing electricity in the premises now days. The total amount of Rs. 2,90,610/- is payable by the complainant.
- The respondent is directed to waive off the LPSC and other charges.
- The respondent is directed to divide the amount in 12 equal monthly instalments along with current electricity bills as per Section 49 of the DERC Guidelines 2018.
- The complainant is further directed to pay current consumption charges regularly including the above stated amount/instalments.

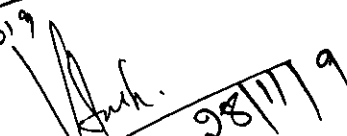
Case is disposed off as above.

No order as to the cost. Both the parties should be informed accordingly.  
Proceedings closed.

The compliance should be reported within 30 days. The order is issued under the seal of Consumer Grievance Redressal Forum (BYPL).

  
28.11.19  
HARSHALI KAUR)  
MEMBER (CRM)

  
(ARUN P SINGH) 28.11.2019  
CHAIRMAN

  
28/11/19  
(VINAY SINGH)  
MEMBER (LEGAL)