



CA No. 151031076
Complaint No. 43/2020

In the matter of:

Shahid Rahimi MalikComplainant

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. Akash Gakhar, proxy counsel for the complainant
2. Mr. Imran Siddiqui and Mr. B.B. Sharma, on behalf of BYPL

ORDER

Date of Hearing: 19th October, 2020

Date of Order: 16th November, 2020

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

Brief facts of the case are summarized below -

1. That the complainant being a senior citizen, aggrieved by non-resolution of his complaint sent a legal notice dated 08/08/2020. When complainant received an inflated electricity bill of amount Rs 52,290.09/ dated 25/6/2019, he was coerced to make the above payment to avoid disconnection of electricity connection bearing number CA No 151031076 of the premises N. No. 170G/F, KH. No 352, Gali No-2, Old Mustafabad, Delhi-110094, owned by the complainant.

Harshali Kaur

Imran Siddiqui

Mrs. Vinay Singh

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2. That the complainant was forced to pay the arbitrary bill of Rs 52,290.09/ through various coercive measures adopted including disconnection of electric supply to the said premises. The electricity bills of the complainant usually ranged between Rs 2000/ to Rs 3000/ approximately, hence electricity bill of such huge amount was considered frivolous and arbitrary in nature.
3. That the complainant visited/requested office of Respondent at several occasions for rectification of the said bill, but all efforts went into vain and subsequently he filed a complaint before Public Grievances Cell of Government of NCT, but the complainant was directed to approach District Consumer Redressal forum, Karakadoma, Delhi but the District Forum directed to withdraw the complaint because the connection of the complainant is non-domestic which is beyond the ambit of PG cell.
4. That the complainant sent a legal notice through his counsel on 08 August, 2019 to Respondent to withdraw the said bill and tender a apology letter to the complainant along with zero /nil outstanding bill. The complainant also sought compensation of rupees one lakh and fees of legal notice of amount Rs 10,000/ to be reimbursed from respondent for infliction of his emotional distress.
5. That the complainant was served electricity notice on 25/06/2019 and 08/08/2019.
6. That the complainant prayed before forum to withdraw the inflated bill of Rs 52,290.09/ of dated 25/06/2019 along with an apology letter stating nil/zero bill against electricity connection CA No 151031076.
7. That the respondent be paid RS 10,000/ legal fees of the notice served to complainant and additional amount of Rs 25000/ legal cost of this complaint.
8. That the complainant seeking interim relief of non disconnection of electricity connection.

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The notice was issued to both the parties and respondent has filed a written statement. That the present complaint is in regard to transfer of dues which was in done on 30.11.2017 and the complainant is approaching the Hon'ble CGRF in 2020, hence the complaint is not maintainable. That the present complaint is in regard to transfer of dues of Rs.35350.09 from CA: 101531697 in the name of Mohd. Sattar at 173, KH-342, G.NO.-2, OLD MUSTAFABAD KARAWAL NAGAR, DELHI- 110094 to CA No.151 031 076 in the name of ALLAH DIYA, S/O BASHEER AHMED H.NO.170, G/F, KH.No.342, GALI No. 2, OLD MUSTAFABAD, DELHI -110094, which is same. That as per the site visit report dated 10.08.2017 and 26.09.2017, notices dated 28.08.2017 and 16.10.2017 were issued to the Consumer for dues transfer, but the consumer did not turn up and thus the dues were transferred accordingly. That earlier the consumer also approached the Public Grievance Cell of Delhi Government. That the dues transfer amount of energy dues is the same premise, hence the same are transferred to live CA no.151031076 by following due procedure. That pertinently to mention here that the consumer of CA No. 151031076 has not paid any of the electricity energy charges bill with standing amount of Rs.62890/- since 20.09.2019. (Copy of bill enclosed).

The complainant has filed written statements in which the transferred amount is illegal and arbitrary and respondent intimidated for disconnection of electricity connection. The Hon'ble Supreme Court and High Court passed several orders that no person shall be deprived of electricity. Further, it is mentioned that he has neither relation with MD Sattar nor utilized his property. The complainant further stressed the stipulations of DERC guidelines Section 17 read with Para 1,2 and 3 along with recalling documents from municipal corporation of Delhi and direct Mohd. Sattar to file a affidavit. Other facts of the complaint reiterated in the written submission.

During the course of proceedings before the forum dated 07/09/2020, dues transferred on Allah Diya stayed till the final order of the forum and

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Complainant is directed to deposit the current dues before the next date of hearing ie 18/09/2020. On 18/09/2020, during the course of the proceedings, the complainant has not paid the current dues and sought some more time to deposit the payment. The complainant is further directed to file the written submission along with the chain of property documents. On 28/09/2020, the complainant's counsel filed the property documents and the respondent also filed photocopy of K No-5 of Mohammad Sattar. The Forum also directed the joint inspection of the property on 30/09/2020 at 12.00 Hrs. Later on 09/10/2020, joint inspection was not conducted of the property as counsel sought some more time as complainant was not available. Again Forum directed to Secretary of the forum to visit the site on 12/10/2020 at 12.00 hrs and to file the report before next date of hearing i.e, 19/10/2020. On 19/10/2020, the complainant's counsel sought some more time to file the written submission as main counsel was not available and the counsel did not render the necessary cooperation for joint inspection as mentioned by the concerned officer of joint inspection team in their report.

After going through all the material aspects/ facts of the case, it came to our knowledge that the complainant has lodged three complaints before the PG Cell of the Government of NCT. The matter was closed by the PG Cell on account of non-appearance of Complainant on 02/01/2019. All the complaints were related to payment of bills.

The joint inspection report was filed before the Forum on dated 07/10/2020 & 12/10/2020. The site report of 07/10/2020 filed by Sr. Manager of Respondent along with map is enumerated below -

1. The shape of the premises could not be identified. Width of the premise was measured from one side wall without width of the back wall and found approximately- 10' 8 yards.

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2. Length of the premise was measured from the front and found approximately 8' 7 yards.
3. Total approximate area - 93' 96 Sq yards without back-wall width and considering rectangular in shape.

On 12 /10/2020, the Secretary of the Forum filed joint inspection report which is mentioned below-

"Site against CA No-151031076 Name - Allah Diya was visited by me along with Bhagat Ram , Secretary of the forum and Shri Kuldeep Kumar , the complainant and his advocate refused measure dimensions of premise"

Now the complainant has approached PG cell of Govt. of NCT but as per their order, the case has been closed owing to non appearance of the complainant. As per joint inspection report, the complainant never co-operated the site visiting team in measuring its premises.

The complainant mentioned that the bills of amount Rs 52,290/ is arbitrary and illegal, so the above amount cannot be recovered from him. The complainant while submitting written submission, cited DERC Guidelines of 2017, Section - 17 Para -1, sub Para-1 &2 and Para -3 and further mentioned once the connection has been transferred, no dues or arrears be recovered from him after change of registered consumer name. The complainant further mentioned that property records be called from Municipal Corporation of Delhi and Mohammad Sattar be summoned to file the affidavit before Forum.

As decided by Hon'ble Supreme Court and High Court 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

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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 bills per the tariff making specific demand from the consumer on the payment of the amount of the consumption of electric energy.

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

"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."

Further, in my opinion, judgment of Division Bench of this Court in Madhu Garg is very categorical and it as even considered judgment of the Hon'ble Supreme Court of India in Isha Marbles vs. Bihar State Electricity Board reported in 1995(2) SCC, which was also referred to by MR SD Ansari Advocate, during the course of arguments. Consequently, the petitioner/owner of premises has to clear all outstanding dues.

After having gone through all the above mentioned facts, the forum is of the opinion that the complainant is not co-operative with the Forum as mentioned in the joint inspection report and seeks settlement of the case on location/premises basis without measuring its dimension. The complainant also cited DERC Guidelines of 2017, Section -17, seeking relief on ground that once owners' name on bill changes, recovery / arrears cannot be effected from him. The complainant further mentioned that property records be called from Municipal Corporation of Delhi and Mohammad Sattar, previous incumbent of the property be summoned to file the affidavit before Forum. As the Forum has no jurisdiction of conducting summary trial so we direct-

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1. That the domestic electricity connection of Mohammad Sattar was disconnected on 24/06/2014 due to non-payment of the bill. But prior to the disconnection, the complainant's electric connection was energized as non-domestic on 16/03/2014 at the same address of Md. Sattar.
2. That the energy consumed is always recoverable as per Supreme Court and High Court orders and DERC guidelines.
3. That the respondent is directed to recover the transferred amount of Rs.52,219.09/ from the complainant on pro-rata basis from all the occupants of the premises or conducting business from that premises.


(HARSHALI KAUR)
MEMBER(CRM)


(VINAY SINGH)
MEMBER(LEGAL)


(ARUN P. SINGH)
CHAIRMAN