

DELHI ELECTRICITY REGULATORY COMMISSION

Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi- 110017

In the matter of:

Paresh Sharma,
Rohan Creations,
202, Sky Line House,
85, Nehru Place,
New Delhi – 110 019.

.....**Complainant**

Through: Shri V.K. Goel, Advocate,
Ch. No. 749, W.W. Tis Hazari, Delhi.

VERSUS

BSES Rajdhani Power Limited
Through its: **CEO**
BSES Bhawan,
Nehru Place,
New Delhi-110019.

.....**Respondent**

Coram:

Sh. K. Venugopal, Member & Sh. R. Krishnamoorthy, Member

Appearance:

1. Sh. V. K. Goel, Advocate for Petitioner.
2. Sh. O. P. Madan, Advocate for Petitioner.
3. Sh. Paresh Sharma, Complainant.
4. Sh. Avinash Gupta, BM(NHP), BSES.

ORDER

(Date of Hearing: 18.01.2007)

(Date of Order: 09.02.2007)

1. The Complainant has approached this Commission for seeking the compliance of the following Order of the CGRF dated 26.05.2006:

"The Forum, therefore, directs that a Notice be issued to Vam Organic Chemicals Ltd., the registered consumer of connection No. 2530 N 323 0336 (Old K. No. 3 NP 013127 3973) by Business Manager (Divn) Nehru Place, with all relevant details for making the payment of pending dues on account of change in tariff for the period from 01.04.1997 to 26.05.2001 and other details pertaining to the case.

Orders of the Forum are to be complied within 21 days of the receipt as per Regulation 9(6) of the guidelines issued by DERC vide Notification dated 11.03.2004."

2. The Complainant submitted in his complaint that no appeal has been preferred against the Order of the CGRF so the said Order has attained finality.

3. The Complainant has submitted that the Respondent instead of complying with the said Order of CGRF started sending their representatives at the premises of the Complainant to disconnect the supply and the Complainant has been even served a notice dated 22.08.2006 for disconnection of supply for non-payment of dues.
4. The Complainant is seeking mainly the following reliefs:
 - (a) The imposition of penalty upon the Respondent.
 - (b) Restraining the Respondent from disconnecting the supply.
 - (c) Direction to the Respondent to provide new connection to the Complainant.
 - (d) Suitable compensation.
5. The Complainant has also moved an application seeking stay against disconnection of supply.
6. The Respondent have submitted that they have complied with the orders of the CGRF by issuing demand letters to M/s. Vam Organic Chemicals Limited on 14.06.2006 and a reminder on 11.10.2006 but, have not received any reply from M/s. Vam Organic Chemicals Limited, till date.
7. The Respondent have also cited a case of Madhu Garg Vs. NDPL (LTA No. 223-24/06) where the following have been held by Hon'ble High Court of Delhi:

"The new owner/occupant, whether he was heir or successor or not, has to pay the outstanding dues if he wants continuation/restoration of the electricity connection. Further, notice of existence of arrears is not the requirement in the clause 2.1(iv) of the General Conditions of the supply. Also, there is no requirement for the licensee to first initiate recovery proceedings by filing a civil suit against the old consumer before disconnecting the supply."
8. The brief background of the case is that the Complainant executed an 'Agreement to Sell' with one Yamini Deepika through her Power of Attorney holder Sh. Desh Deepak for purchase of the house where electricity connection no. 2530N3230336 (Old K. No. 3NP0131273973) was lying disconnected.
9. He submitted before the CGRF that at the time of purchase of the property, Sh. Desh Deepak had got the connection restored. After the restoration of supply, the Petitioner received bills on the basis of the actual consumption and the Complainant continued to make the payments against such bills. However, in the month of January, 2006 some

employees of BRPL visited the premises of the Complainant and threatened disconnection of supply on account of pending dues amounting to Rs. 4,61,226 (Rupees Four Lakh Sixty One Thousand Two Hundred and Twenty Six only). The case of the Complainant is that he was not receiving the bills and the current bills used to be collected from the office of the Respondent. The Complainant submitted that the connection was already restored by the seller, therefore, the Complainant was not liable to pay any outstanding dues against that connection.

10. He also submitted that he sent a cheque for an amount of Rs. 4,151/-, the current bill for the month of January, 2006 through registered A.D.. The Complainant also brought certain facts before the notice of the CGRF that Mrs. Yamini Deepika purchased the property in May, 2003 from M/s. Vam Organic Chemicals Limited and the electricity connection was registered in the name of M/s. Vam Organic Chemicals Limited. The Respondent raised a demand of Rs. 2,03,010/- against the connection and Sh. Desh Deepak, the power of attorney holder of Mrs. Yamini Deepika, filed a case before PLA on 22.04.2003 against this demand.
11. The PLA vide Interim Order dated 24.04.2003 directed the Respondent to restore the supply on payment of Rs. 50,000/- by the Complainant. The PLA closed the matter as unsettled on 06.08.2004.
12. The Complainant submitted that the bill pertains to the period when the property was in the name of M/s. Vam Organic Chemicals Limited and Mrs. Yamini Deepika and during that period no such bill was raised so now, they are not entitled to recover any charges for that period.
13. The Respondent in their reply before the CGRF submitted that it was for the Complainant to enquire about the dues of the Licensee before entering into the house of the earlier owner.
14. The Respondent admitted that the supply was disconnected due to non-payment of dues for an amount of Rs. 3,70,042.08/- in the month of May, 2003. The Complainant never enquired from the Respondent about the pending dues before executing any Agreement to Sell hence, the Complainant is bound to pay the previous arrears in respect of the electricity connection. The amount i.e. Rs. 2,03,010/- deposited by the then M/s. Vam Organic Chemicals Limited was not final payment as the bill was raised in the month of January, 2001 and the connection was

disconnected on 25.06.2002 and it was only in the month of March, 2003 when final bill amounting to Rs. 4,21,180.14/- was raised.

15. They further submitted that the connection was restored by the Respondent in compliance to the Interim Order passed on 24.04.2003 by PLA.
16. Both the parties were present and heard. The Counsel for the Complainant Sh. V. K. Goel submitted that the Complainant is not liable to pay the arrears which pertain to the period when M/s. Vam Organic Chemicals Limited was in occupation of the premises. Moreover, the bill pertains to the period which is more than two years old and thus hit by the provisions of Section 56(2) of the Electricity Act, 2003.
17. During the course of arguments, the Representative of the Respondent, Sh. Avinash Gupta submitted before the Commission that the Respondent have already complied with the Orders of the Ld. CGRF by issuing two letters to M/s. Vam Organic Chemicals Limited but have not received any information from them till date.
18. In view of the submissions made by the parties and the present legal position of Madhu Garg case which is still pending before the Hon'ble Supreme Court of India, at this stage, it would be appropriate to keep the matter pending till the final outcome of the above said case. However, in the meanwhile, the Respondent are directed not to disconnect the supply of electricity at the premises of the Complainant subject to the Complainant making payment of all current demands.
19. Ordered accordingly.

Sd/-
(K. Venugopal)
MEMBER

Sd/-
(R. Krishnamoorthy)
MEMBER