Delhi Electricity Regulatory Commission

Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 17

No. F. 11(331)/2007-08/DERC

Petition No. 26/2007

In the matter of: Petition under Regulations 24, 25 & 26 of the DERC (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumers and Ombudsman) Regulations, 2003 and Regulation 57 of the DERC Comprehensive (Conduct of Business) Regulations, 2001.

In the matter of:

BSES Yamuna Power Ltd.,
Through its: **CEO**
Shakti Kiran Building,
Karkardooma
Delhi – 110 092. **…Petitioner**

Versus

Consumer Grievance Redressal Forum,
Sub-station Building, BSES(YPL)
Karkardooma, Shahdara,
Delhi – 110 092. **…Respondent No. 1**

Sh. Ramesh Malhotra
House No. 123,
South Anarkali Extn.,
Delhi – 110 051. **…Respondent No. 2**

Appearance:

1. Sh. Mansoor Ali, Advocate, BSES.

Coram:

Sh. P. D. Sudhakar, Chairman, Sh. Shyam Wadhera, Member &
Sh. J. P. Singh, Member.

ORDER

(Date of Hearing: 11.09.2012)
(Date of Order: 01.10.2012)

1. The instant Petition has been filed by the Petitioner seeking the indulgence of this Commission to clarify/lay down guidelines prescribing period of limitation for entertaining complaints before the CGRF

2. In this regard the Petitioner has invited attention to the Order dated 06.03.2007 passed by CGRF vide which CGRF has rejected the submission of the Petitioner

that the claim of the Respondent being time barred cannot be entertained and adjudicated upon. This was made without even giving any finding on this issue.

3. It has been submitted by the Petitioner that the CGRF while deciding the above complaint of the Respondent 2, vide order dated 06.03.2007, disposed of the Complaint holding that the Petitioner is not entitled to charge the bills on average basis for the period 27.12.1997 to 25.06.2003 as the meter installed at the premises of Respondent No. 2, became defective and was not replaced for more than 5 years. This has been decided without giving any finding on the issue of limitation and without giving a reasoned order on the issues raised,.

4. It is further submitted that necessity for enacting periods of limitation is to ensure that actions are commenced within a specified timeframe. This principle is based upon the maxim *vigilantibus, non dermientibus, jura subveniunt* which means law gives help to those who are watchful and not to those who sleep. The object of law of limitation is to compel a person to exercise his right within a reasonable time as also to discourage stale, fake or fraudulent claims. The Consumer Protection Act which provides for an alternative remedy for a similar relief also provides for limitation of two years from the date of cause of action.

5. This limitation clause has been provided by some SERC's namely:-

S. No.	State Electricity Regulatory Commission	Period of Limitation Prescribed
1.	Maharashtra	2 years
2.	Jharkhand	1 year
3.	Haryana	1 year

6. The Petitioner in its prayer has prayed the following to the Commission:-

a) In exercise of powers conferred under the provisions of Electricity Act, 2003, the Reforms Act and the Regulations framed thereunder, clarify/lay down guidelines providing that the CGRF cannot entertain, try and adjudicate a complaint beyond 3 years of cause of action.

b) Set aside the orders dated 06.03.2007 passed by the CGRF and direct the CGRF to decide the complaint afresh in view of article 137 of the Limitation Act.

7. The matter was listed for hearing in the Commission on 11.09.2012. where the Commission heard the petitioner at length & observed that the process of revision of DERC (Guidelines for establishment of Forum for redressal of grievances of the consumers and Ombudsman) Regulations is on. Petitoner's concerns for limitation will be considered while finalising the regulations.

8. As far as the second prayer of the Petitioner (for setting aside the order of the CGRF, this Commission is not an Appellate Authority on the order passed by the CGRF and hence the same cannot be interfered with.

9. This petition accordingly stands disposed off.

Sd/-	Sd/-	Sd/-
(J. P. Singh)	(Shyam Wadhera)	(P. D. Sudhakar)
Member	Member	Chairman