



Delhi Electricity Regulatory Commission

Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi –110 017

F.11 (1311)/DERC/2015-16/5057

Petition No. 81/2015

Under section 142 of the Electricity Act, 2003

In the matter of:

Rakesh Kumar Pathak

.....Petitioner

VERSUS

**New Delhi Municipal Council
Through its Director (Commercial)**

**Land and Building Department
Evacuated Property Cell**

Through: Deputy Secretary cum Assistant Settlement Commissioner

.....Respondents

CORAM:

Hon'ble Sh. Justice S S Chauhan, Chairperson

Hon'ble Sh. A.K. Ambasht, Member

Appearance:

- 1. Shri Rakesh Kumar Pathak, Petitioner;**
- 2. Shri M. K. Poddar, EE Comml., NDMC;**
- 3. Shri Priyabrat Sahu, Advocate for L& B Dept.**

ORDER

(Date of Order: 03.02.2021)

1. The instant petition has been filed by Mr. Rakesh Kumar Pathak under Section 142 of the Electricity Act, 2003 against New Delhi Municipal Council (NDMC) for violation of the procedure laid down in the Delhi Electricity Supply Code and Performance Standards Regulations, 2007 (hereinafter referred to as SOP Regulations, 2007), in respect to transfer of existing connection of the deceased father to his son who is a petitioner in the case.
2. The Petitioner has alleged that despite submitting the requisite documents as laid down viz. Regulation 20(2) of the SOP Regulations, 2007, vide his application dated 18.06.2015 to change name in the electricity bill from his deceased father to son (Petitioner) and enclosed the necessary documents like:

- i. Death certificate of Petitioner's Father,
- ii. Paid electricity bill of June 2015 in favour of Petitioner,
- iii. Registered Will dated 10.03.2006 in favour of Petitioner, and
- iv. Rent deposit receipt dated 02.06.2015 of the premises in favour of Petitioner.

The Respondent did not respond.

- a) And even thereafter on 02.08.2015, the Petitioner did not receive any response even after following Grievance Redressal Procedure and keeping customer care of NDMC and the Secretary of CGRF.
- b) Thereafter, the Petitioner vide his letter dated 17.08.2015 wrote to the Ombudsman, but there was no response. The Petitioner has moved an application before the Commission praying inter alia that the Respondent, NDMC be directed to raise bill in premises Second Floor, 7 Jantar mantar Road, New Delhi – 1, in the name of Petitioner, Rakesh Kumar Pathak, instead of his deceased father Shri RCL Pathak since the Petitioner is the legal owner of all fixture, fittings in the premises by virtue of registered will made by his father and the Respondent be directed to pay compensation/penalty for non-compliance of the regulations along with the cost of litigation.

3. RESPONDENTS'S SUBMISSION

A. The Respondent No. 1, NDMC has in rebuttal stated that

- (i) The premises in question is an evacuee property and as per the records of the Respondent, the ownership of the premises vests with Rehabilitation Division, Ministry of Home Affairs, Govt. of India. The Respondent has been informed by the Ministry of Home Affairs that the work of administration, management and disposal of evacuee properties situated in Delhi has been transferred to the Land and Building Department, Govt. of NCT of Delhi along with concerned records. This was communicated to the complainant vide Letter dated 14.09.2015 of the Respondent in which the complainant was also asked to obtain NOC from the Office of Deputy Secretary cum Assistant Settlement Commissioner, Evacuee Property Cell, Land and Building Department, Govt. of NCT of Delhi and to submit the same to the Respondent so that his transfer case could be initiated. However, the complainant failed to do so.
- (ii) The Respondent is ready and willing to transfer the connection to the complainant provided the complainant fulfils the legal requirements as per Regulation 20(2) of SOP Regulations, 2007.
- (iii) The Commission may direct the complainant to provide mutation letter/NOC from the property's owner so that the Respondent may process the complainant's request.

B. The Respondent No. 2, Land and Building Department, GoNCTD: In reply the Respondent NO. 2 has stated that:

- a. The property in question is an evacuee property and is governed by the Administration of Evacuee Property Act, 1950 and as well as displaced Persons (Compensation & Rehabilitation) Act, 1954.
 - b. The answering Respondent refutes the claim of the Petitioner against the raising of bills in his name as he does not have any locus to pray for any such relief before this Commission.
 - c. The Petitioner has not furnished any documents related to the rights and titles of the property in question. It has further submitted that the Petitioner is devoid of any locus to file the present petition. It may be noted that merely on the basis of the will the Petitioner cannot claim the right over the Evacuee Property, which is a property governed by the Evacuee Property Cell, Land & Building Department, Govt. of NCT of Delhi.
4. Based on the arguments put forth by the parties, the Commission vide Interim Order dated 29.11.2016 issued a Show-cause notice to the Respondent No.1 for violation of Regulation 20(2) of the SOP Regulations, 2007.
5. The Respondents viz. R-1/NDMC and R-2/Land & Building Department replied to the Show Cause Notice on 30.12.2016 and 21.07.2017, respectively, which are summarised as follows: -

A. Response of Respondent No. 1, NDMC

- a. A letter dated 05.03.2013 was issued to the Petitioner by the A.E. (Meter) for obtaining of legal occupancy documents. As per SOP Regulations, 2007 (Annexure-iv), the applicant shall apply to change of consumer's name on showing Mutation letter from Land-owning Agency or any other proof of Legal Heirship, but the applicant has only submitted Death Certificate of his father and Affidavit mentioning that the applicant is the legal occupant of the said premises.
- b. The applicant has not submitted mutation letter/NOC from the Land owning Agency or any other proof of Legal Heirship for the said premises till date as per SOP Regulations, 2007, therefore, electric connection could not be transferred in the name of Petitioner/applicant by the Commercial Department, NDMC.

B. Response of Respondent No. 2, Land and Building Department, GoNCTD

- a) That the property in question i.e. 7, Jantar Mantar Road, New Delhi, is an evacuee Property and is governed by the Administration of Evacuee

Property Act, 1950 and as well as Displaced Persons (Compensation & Rehabilitation) Act, 1954.

- b) The answering respondent refutes the claim of the complainant against the raising of bills in his name as he doesn't have any locus to pray for any such relief before this Commission.
- c) That it is stated that the department has neither received any rent from the complainant or his deceased father nor he has furnished any documentary proof relating thereto, it is stated that the complainant is in illegal and unauthorised occupation and possession of the property in question. It is pertinent to mention here that the department has neither inducted his father nor him as an owner/tenant/occupant, so the question of allowing the installation/advancing the bill in the name of the complainant is altogether refuted by the answering respondent.
- d) That the complainant has not come to this Commission with clean hands. The complainant is guilty of 'supresso Vari' and 'Suggestio falsi' therefore, they are not entitled to seek any relief from this Commission.

6. COMMISSION'S ANALYSIS:

- a) Regulation 20 (2) of the SOP Regulations, 2007 mandates that an application for transfer of consumer's name to legal heir shall be accepted on showing mutation letter issued by the land agencies or any other proof of legal heirship. The applicant has not submitted mutation letter/NOC from the Land-owning Agency or any other proof of legal heirship for the said premises till date, as per SOP Regulations, 2007. Further it is incumbent upon a DISCOM to intimate deficiencies in the application within seven days of receipt of application only on removal of difficulties, the change of consumer's name be effected within two billing cycles after acceptance of application.
- b) Record reveals that on 12.02.2013, the Petitioner had applied for change of name in the Electricity bill, from his deceased father to his name. The Respondent informed the deficiency in the application on 05.03.2013. Evidently there is a delay of twenty-three days in intimating the Petitioner about the deficiency from the date of receipt of application.
- c) The Land and Building Department, Govt. of NCT has raised the issue of unauthorized occupation of the property by the Petitioner. It is evident that the dispute related to occupation of the premises has been the main issue for not transferring the electricity connection in the name of the Petitioner.
- d) The Petitioner whilst relying on a Registered WILL in support of legal heirship, rent receipt and a copy of last paid Bill has argued that the tenancy is to be transferred in his name. The copy of the rent receipt submitted by the Petitioner is actually a copy of challan through which he has paid Rs. 180/- in the account of All India Congress Committee. Such receipt cannot be treated as a rent

receipt, which has not been verified/signed by the owner or his authorised representative. In terms of Regulation 10(3)(vi) of Delhi Electricity Regulatory Commission (Supply Code and Performance Standards) Regulations, 2017, which provides that a rent receipt may be considered as proof of ownership or occupancy of the premises only if it is not more than three months old and supported by the undertaking that the rent receipt has been signed by the owner or his authorised representative.

- e) If it is apparent that the Petitioner has submitted the rent receipt in his father's name as a proof of occupying the premises even then as per SOP Regulations, 2007, the rent receipt with proof of ownership of landlord was required as proof of occupancy. Therefore, NDMC may not be held erroneous in its approach for not transferring the connection in the name of Petitioner due to non-submission of required documents as required under SOP Regulations, 2007.
- f) Nonetheless, it is undisputed that the Petitioner is in occupation of the premises, originally allotted to his father; and there are some legal issues, which have to be settled by other courts of law or administrative departments for which this Commission has no jurisdiction. It is only the question of unauthorized occupation, which is being raised by the Land and Building Department, GoNCTD. It is also a fact that there exists an electricity connection on the said premises, alleged to be in unauthorised occupation of the Petitioner; and the electricity bill is being raised in the name of father of the Petitioner, a deceased person. However, there is no dispute about category of consumer or misuse of electricity. In such a situation, when the user is paying electricity bills regularly against the connection, which was sanctioned bonafide by the Respondent and in the present circumstances, it is not liable for disconnection unless an Order of any competent courts of law directs in this regard.
- g) Raising of electricity bill in the name of a deceased person cannot be termed as a good practice and perpetuates impropriety. This is sort of an abnormal and peculiar situation. Therefore, it is for consideration that in the cases involving property dispute, whether it would be appropriate to deny transfer of connection and continue to raise electricity bill in the name of a deceased person or otherwise.
- h) As per Regulation 10(1)(vii) of Delhi Electricity Supply Code and Performance Standards Regulations, 2017, the electricity bill is only for the purpose of electricity supply to the premises occupied by the consumer and cannot be used for claiming rights or titles over the premises. It is further informed that Annexure-X 'format of electricity bill' of Schedule of charges and the procedure under DERC (Supply Code and Performance Standards) Regulations, 2017 stipulates for both address i.e. 'billing address and supply address'. In such cases where a person is occupying the premises and using the electricity supplied to the premises being legal heir of the deceased person, it would be prudent to include the supply address of the premises in the name of Land and Building

Department, Govt. of NCT and the billing address in the name of the applicant in the electricity bill.

- i) As regards unauthorised occupation, the Land and Building Department, GoNCTD may adopt legal recourse to settle the issue and it is not for this Commission to deliberate on this issue. Nonetheless, as already clarified that particulars on an electricity bill does not entitle the occupier to have rights or titles over the premises, the name change in electricity bill may not have any bearing on the property dispute.
- j) Raising the electricity bill in the name of a deceased person is not a healthy practice rather it is unethical and defies logics, the Respondent is required to transfer the connection in the name of the Petitioner subject to the outcome of dispute of alleged unauthorised occupation.

7. In view of the foregoing discussion, the Commission directs as follow:

- 1. It is apparent on the face of the record that the registered will has not been mutated as per the laid down procedure. Apart from the same the petitioner is in occupation of the premises in question which is a property on tenancy, is in the name of deceased father of the petitioner. Undoubtedly, the transfer connection has to be affected by due process which cannot be compromised in any manner whatsoever. Needless to say that occupation of such a building which is under dispute does not confer any right whatsoever on the said property. Under such circumstances it is incumbent upon the petitioner to first submit all the documents including legal heir certificate to justify the petitioner claim for transfer of connection as laid down under the extent rules. Till the time he submits all the documents, he has no right whatsoever to demand transfer of connection.
- 2. As regards negligence of NDMC by not intimating deficiency in the application for transfer of connection within the specified period, record reveal that the NDMC had on numerous occasion conveyed the petitioner to submit the entire set of documents which are compulsorily to be submitted for the purpose of obtaining connection. There is no evidence to justify or corroborate either negligence or by default on the part of NDMC. Hence no penalty can be imposed in the given facts and circumstances of the case as emerged out in the entire proceedings. Accordingly, no penalty is being imposed at present.

The case be not considered as a precedent.

The case has no merit to dwell-upon as on date and accordingly petition is dismissed.

**Sd/-
(A.K. Ambasht)
Member**

**Sd/-
(Justice S.S. Chauhan)
Chairperson**