

Delhi Electricity Regulatory Commission

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

Ref. F.11(759)/DERC/2011-12/C.F.No3260/167

Petition No. 73/2011

In the matter of: Complaint under Section 142 of the Electricity Act, 2003.

AND

In the matter of:

Sudha Jain
Plot No. J-100, Pocket-J,
Sector-2, Ground Floor,
DSIDC Bawana,
Delhi-110 039

...Complainant

Correspondence Address:

Ms. Sudha Jain
H.No. 85, Gajju Katra,
Bara Bazar, Shahdara,
Delhi-110 032

VERSUS

M/s Tata Power Delhi Distribution Limited
Through its : **MD**
Grid Sub-Stn. Building,
Hudson Lines, Kingsway Camp,
Delhi-110 009

...Respondent

Coram:

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

Appearance:

1. Sh. Ajay Kalsi, Company Secretary, TPDDL;
2. Sh. K.L. Bhayana, Advisor, TPDDL;
3. Sh. O.P. Singh, Sr. Manager, TPDDL;
4. Sh. Shalendra Singh, Manager, TPDDL;
5. Sh. K.Datta, Advocate, TPDDL;
6. Sh. Manish Srivastava, Advocate, TPDDL.

ORDER

Date of Hearing: 20.03.2012
(Date of Order: 10.04.2012)

1. The instant complaint has been filed by Ms. Sudha Jain on 22.11.2011 which was allotted petition no. 73 of 2011. She is the consumer of the

electricity connection K.No. 41404133104, which was installed at Plot No. 100, Pocket J, Sector 2, Bawana Industrial Area, Delhi.

2. The brief matrix of the case is that:
 - i. The complainant has submitted that her factory was non functional between September 2010 to mid November 2011, however, the bills for the month of September and October 2010 were paid with late fee in November 2010. The bill received for the month of December 2010 had nil reading.
 - ii. On 29.12.2010, complainant filed a complaint in the office of Respondent for change of meter vide req. no. 1011912436 which was changed on 5.01.2011. However, the complainant received a letter dated 02.02.2011 along with calculation sheet of assessment, wherein a demand of Rs. 72,168/- was shown as recoverable. The complainant received a bill no. 1102831471 dated 11.02.2011 amounting to Rs. 84,280/-.
 - iii. On 28.02.2011, the complainant filed a complaint to CGRF and deposited Rs. 30,000/-.
 - iv. The complainant received a Show Cause notice dated 22.03.2011 from the Respondent, in which, the complainant was asked to appear for personal hearing, which was held on 03.05.2011.
 - v. On 03.05.2011, CGRF issued final order, wherein forum held that the intimation about the vacancy of the premises under Regulations 46(1) of the Supply Code was not submitted by the Complainant to the Respondent so the same is not maintainable. However, LPSC is waived off.

- vi. Against the above impugned order of the CGRF, the complainant filed an appeal before the Ombudsman on 03.06.2011. The Ld. Ombudsman decided the above appeal on 23.11.2011 and held that from analysis of the facts placed on record the appellant's inability to substantiate her claim that her factory was not working between 07.09.2010 to mid November, 2010 and the Third Party Meter Testing Report no. EMTR/02/1430 dated 07.11.2011 of ERDA, it is concluded that there is no merit in the appeal of the Appellant and there are no reasons to warrant any change in the order of the CGRF-NDPL dated 03.05.2011.
- vii. In the instant complaint, the complainant has sought action against the Respondent for violation of Regulations 37(iii), 39(b), 38, 44 and 52 of the Supply Code.
3. While refuting the above charges, the Respondent has sought dismissal of the above complaint on the ground that the same issue has already been decided in CGRF as well as in appeal by Ombudsman and hence is barred u/s 11 of CPC on the principle of Res-judicata. The orders of the above forums are binding under Regulation 11 and 22 of the DERC E.F.R.G.C. & O. Regulations, 2003. Hence, the complainant cannot raise the same grievance before this Commission.
4. The matter was listed for hearing on 20.03.2012 in the Commission. None appeared on behalf of the complainant, while the above mentioned official appeared on behalf of the Respondent (TPDDL).
5. After perusing the record placed before the Commission and arguments advanced by the Respondent, the Commission observed that the issue involved in the above matter related to billing, which has already been decided by the appropriate forum i.e. CGRF and even the appeal has also been dismissed by the Ombudsman. The order of the Ombudsman is

final and binding on the parties as per Regulation 22 of the Regulation EFRGC&O. Therefore, to adjudicate the same issue further, is not within the jurisdiction of the Commission, as the Commission is not an Appellate Authority against the order of the Ombudsman. Hence the Commission is not inclined to interfere in the above findings and disposes of the above complaint as dismissed for want of jurisdiction.

6. Ordered accordingly.

Sd/-
(J.P. Singh)
MEMBER

Sd/-
(Shyam Wadhera)
MEMBER

Sd/-
(P.D. Sudhakar)
CHAIRPERSON