

**Convenient Shopping Centre, Saini Enclave, DELHI -110092
DELHI EAST**

**Complaint Case No. CC/34/2015
(Date of Filing : 15 Jan 2015)**

1. SANDEEP SHARMA

R/O H.NO 3/0 SAHDEV GALI VISHWAS NAGAR NEAR
PANDAV NAGAR DELHI

.....Complainant(s)

Versus

1. BSES

SHAKTI KIRAN BUILDING KARKARDOOMA DELHI-92

.....Opp.Party(s)

BEFORE:

**SUKHVIR SINGH MALHOTRA PRESIDENT
RAVI KUMAR MEMBER
MS. RASHMI BANSAL MEMBER**

PRESENT:

Dated : 20 Oct 2023

Final Order / Judgement

DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION (EAST)

GOVT. OF NCT OF DELHI

CONVENIENT SHOPPING CENTRE, FIRST FLOOR,

SAINI ENCLAVE, DELHI – 110 092

C.C. No. 34/2015

Sh. Sandeep Sharma

S/o Late Sh. Ved Prakash Sharma

R/o. House No. 3/30, Sahdev Gali, Vishwas Nagar, Near
Pandav Road, Delhi-110032.

....Complainant

Versus

BSES Yamuna Power Limited

Shakti Kiram Building, Karkardooma, Delhi-110092.

.....OP

Also At:-

CBD-III, Annex Building, Opp Aggarwal Fun City Mall,
Karkardooma, Delhi-110092.

Through

Chief Executive Officer

Date of Institution: 14.01.2015

Judgment Reserved on: 10.10.2023

Judgment Passed on: 20.10.2023

QUORUM:

Sh. S.S. Malhotra (President)

Sh. Ravi Kumar (Member)

Ms. Rashmi Bansal (Member)

Judgment By: Shri S.S. Malhotra (President)

JUDGMENT

1. By this judgment the Commission shall dispose off the complaint of the complainant against OP w.r.t. deficiency in service in not providing electricity and also on account of illegal disconnection of this electricity supply from two meters installed at his premises.
2. Brief facts as stated by the complainant in the complaint are that complainant is one of the co-owner and residence of House No. 3/30, Sahdev Gali, Vishwas Nagar, Delhi & is having two electricity meter installed in it i.e. CA No.100710766(Non-Domestic) in the name of Sh. Suraj Prakash (Grandfather of the complainant) and another having CA No. 100688907 in the name of Sh. Ved Prakash(Father of the compalinant). The complainant is residing at Ground Floor

& at First Floor, whereas his brother is residing at Second Floor. It is further submitted that complainant is paying regular bill but the complainant received two bills on 07.01.2015 and both having bill date 29.12.2014 and their bill show outstanding i.e. amount of Rs. 9,85,290/- on bill having Sr. No. 10024176847 and another bill showing arrear of Rs. 9,87,250/- by Sr. No. 100481559981 and on the backside of the bill Notice u/s 56(1) Electricity Act 2003 was printed on these bills & were addressed to one Sh. Rajesh Khanna, B-219, Jhilmil Colony, Shahdara, Delhi-110095 having CA No. 100690636 and on another bill addressed to Sh. Paramjit Singh, Part B-217, G/F Jhilmil Colony, Shahdara, Delhi-110095 it was having CA No. 100690564. Not only this the official of OP reached the house of the complainant on 09.01.2015 and disconnected electricity connection without giving any opportunity to the complainant which act of the OP is unlawful and it amounts deficiency in service and illegal. Complainant had been paying the electricity bill through-out and it is prayed that OP be directed to restore the electricity supply of both disconnected electricity meters and also pay compensation of Rs.10,000/- and litigation cost.

3. The OP was served and has filed written reply thereby submitting that present complaint case is without any cause of action, the OP has not approached the Commission with clean hands and it is misuse of the process of law and complaint has been filed on false and concocted facts. It is further submitted that admittedly the one of the electricity meter CA No.100710766 is for commercial purpose and therefore this consumer Commission does not have any jurisdiction to entertain the complaint for that bill and even otherwise the complaint case is barred by law as complainant has no privity of contract between OP as CA No.100710766(Non-Domestic) is in the name of Sh. Suraj Prakash & bill w.r.t. CA No. 100688907 in the name of Sh. Ved Prakash, therefore complainant is trying to mislead the Commission. It is further submitted that complainant is trying to mislead the Commission by suppressing material facts and the correct facts are that the site was inspected on 11.09.2014 & it was observed that supply of live connection having CA No.100710766(Non-Domestic) in the name of Sh. Suraj Prakash and connection having CA No. 100688907 registered in the name of Sh. Ved Prakash, were found extending/supplying the electricity to another disconnected connection which stands disconnected on account of the outstanding dues amounting of Rs.19,66,967/- and therefore the electricity connection from both these meters i.e. CA No.100710766(Non-Domestic) and CA No. 100688907 was disconnected and the amount which was due to the disconnected meter (i.e. electricity connection which has already been disconnected) had arrear of Rs.19,66,967/- and that amount was equally distributed on CA No.100710766(Non-Domestic) and CA No. 100688907 and accordingly bill was raised on these two CA Nos & it was done in accordance with electricity rules and complainant has not disclosed these facts in its complaint. It is further submitted that amount which was outstanding on the disconnected meter was distributed on prorata basis as it was found that complainant had been transferring the electricity to the disconnected electricity meter and therefore the complaint case be dismissed.
4. The complainant has filed rejoinder and it is specifically mentioned that the complainant has the locus standi to file the present complaint being the legal heir of registered consumer, Sh. Suraj Prakash & Sh. Ved Prakash, as per Clause 2(b) of the Electricity Act 2003 which inter alia states that in case of death of consumer, the legal heir or representative can make complaint therefore it is denied that complaint is not maintainable. It is further denied that on the alleged date of inspection i.e. on 11.09.2014 by the OP company it was observed by OP that supply of live connections were found extended to the supply of disconnected meter i.e.

having CA No. 100607911 registered in the name of Sh. Ved Prakash or that dues which were outstanding on CA No.100007911 in the name of Sh. Ved Prakash as alleged. It is further submitted that no further inspection was carried out and no connection is in the name of Sh. Ved Prakash in the building or at any point of time, it is further submitted that on the perusal the alleged said inspection dated 11.09.2014 it is clear that no disconnected meter was found, no yellow/black cable was found, no loop/loose connection was found on the spot of live connection as alleged. Further there is no signature of any family member on the inspection report & the fact as to who was present at time of alleged inspection was carried out also is not explained and no copy of the inspection report was given to the complainant or family member and even no photographs were obtained on the spot while carrying out inspection in the said inspection report w.r.t. CA No. 100007911 i.e. the disconnected meter. It is also denied that there was any outstanding amount of Rs.19,66,967/- against the CA No. 100007911 in the name of Sh. Ved Prakash as alleged. In fact there was no connection in the name of Sh. Ved Prakash and only one new connection is in the name of Sh. Ved Prakash having CA No. 100007911. It is further denied that notice of transfer of dues 19.11.2014, 12.12.2014, 23.12.2014 were sent to the registered address of the complainant as alleged. The OP in fact has not followed the procedure laid-down in Section 56 of the Electricity Act 2003 and has arbitrarily disconnected the electricity connection by preparing false papers and accordingly & it is prayed that complainant case be allowed.

5. The complainant has filed his own evidence by way of affidavit. OP has filed evidence of Sh. Rajeev Kwatra DGM, BSES & both the parties have stated the facts as per their proceedings in evidence on oath. Written arguments have been filed.
6. The Commission has heard the arguments and perused the record.
7. The case of the complainant in nut-shell is that he being the grandson of Sh. Suraj Prakash and son of the Sh. Ved Prakash, is residing on the given address where two electricity meters have been installed i.e. one having CA No.100710766(Non-Domestic) and other having CA No. 100688907 for domestic purpose and he is residing in premise alongwith his family as legal heir of the registered consumer, and they received a notice which was not in their name or not even the name of registered consumer Sh. Suraj Prakash or Sh. Ved Prakash and not even on their address, rather it was in the name of Sh. Rajesh Khanna and other was in the name of Sh. Paramjit Singh stating to be the resident of somewhere in Jhilmil Colony and therefore no notice w.r.t. two electricity CA number as mentioned herein above was ever served upon him nor that notice relates to the suit property nor to the CA Nos, of which OP has disconnected, their electricity without giving him an opportunity of being heard which amounts to deficiency in service and not only this , even the bill so raised is against these CA Nos which does not pertain to him and as such OP be directed to restore the electricity and pay compensation.
8. On the other hand the contention of OP is that this suit premise where to complainant is residing was inspected on 11.09.2014 and it was found that these two meters having consumer CA No.100710766(Non-Domestic) & having CA No. 100688907 (domestic) were feeding to electricity to one disconnected meter which meter had already been disconnected and as such the bill was raised & notice was issued under Section 56 of the Electricity Act and on account of the non compliance of that notice the electricity was disconnected and as such there is no deficiency in service.
9. The OP in addition to that has argued that electricity having CA No.100710766(Non-Domestic) is for commercial purpose and therefore in view of the settled principle of law, the

service which is being provided for commercial purpose did not attract the provision of Consumer Protection Act and as such the complainant is not the consumer particularly w.r.t. meter having CA No.100710766(Non-Domestic). It is also argued that there is no privity of contract of filing the complaint as complainant against OP as consumer is not a registered consumer of the OP.

10. The Commission would be dealing with these arguments one by one. Firstly coming to the locus/privity. The bill is being raised against CA No. 100688907(domestic) which the name Sh. Ved Prakash and w.r.t. CA No.100710766(Non-Domestic) Sh. Suraj Prakash. The complainant is admittedly the successor in interest/legal heir of the registered consumer and therefore this contention of OP is not well found and complainant is competent to file the present complaint being legal heir.
11. Now second issue is as to whether the complainant is a consumer of OP. As bills are being raised by the OP at the premise of the complainant for which complainant has been paying the electricity charges, therefore the complainant is availing the services of OP for consideration & therefore apparently, subject to the definition of the consumer under Consumer Protection Act the complainant is a consumer of OP w.r.t. electricity meter having CA No. 100688907 which is for domestic purpose. Now whether the complainant is a consumer w.r.t. electricity meter having CA No.100710766(Non-Domestic) is concerned, law is well settled that any service as availed by the complainant for commercial purpose would exclude him from the definition of consumer. The allegations/averment made by the OP in its written statement have not been controverted by the complainant in its rejoinder to the written statement i.e. rejoinder. Not only this, the complainant himself in the complaint has mentioned that electricity meter having CA No.100710766 is Non-Domestic & not for the domestic purpose. Therefore, as far as locus of the complainant w.r.t. one electricity meter i.e. CA No.100710766 (Non-Domestic) is concerned he is not of a consumer of the OP however as far as electricity meter having CA No. 100688907(domestic) is concerned the complainant is a consumer of OP.
12. Now third issue is w.r.t. the serving of notice upon the complainant incorporating different address is concerned, the OP has not been able to prove as to why the notice was in the name of Sh. Rajesh Khanna and Sh. Paramjit Singh. The OP has also not placed any inspection report of the premise on record. This Commission otherwise has a very limited role w.r.t. providing electricity to the complainant against the consideration. There may be certain dues in the name of Sh. Suraj Prakash (Grandfather of the complainant) or in the name of Sh. Ved Prakash (Father of the complainant) or the complainant may be feeding electricity from these two meters to some another disconnected meter, but this Commission is of the opinion that the OP has its own remedy under its own Act i.e. Electricity Act to prosecute them or to claim recovery from them but after compliance of the due process of law and this Commission is of the opinion that the OP may proceed against the complainant in accordance with law after serving proper notice to them at their given address & this Commission is not referring any opinion or abridging the rights of the OP in this regard as that process requires complete evidence which is also subject to cross examination. The OP may proceed in accordance with law against the complainants for other violation of Electricity Act.
13. However as far as the connection of electricity is concerned it cannot be disconnected without first serving notice & thereby proving that there was certain dues on account of the feeding electricity to other disconnected meters.

14. When the complaint was filed the Ld. Predecessor has passed an interim order for restoring the electricity which might have been restored but there is no specific mention of this fact as to whether electricity has been restored w.r.t. both the electricity meters or only w.r.t. one electricity meter. Therefore that order is being modified, and the Commission hereby after observing that there is deficiency on the part of OP w.r.t. CA No. 100688907 & is passing the following orders;

- The OP would restore the electricity connection of the complainant which pertains to electricity meter having CA No. 100688907 i.e. for domestic purpose & of complainant would continue to pay the electricity bill.
- As far as relief w.r.t. electricity meter having CA No.100710766 (Non-Domestic) is concerned the complainant is not a consumer being that electricity connection is used for commercial purpose & the prayer of the complainant is dismissed.
- The OP would also pay compensation of Rs.5000/- to the complainant to the complainant without interest w.r.t. deficiency of domestic disconnected meter which was for domestic purpose.

C. copy of the Order be supplied/sent to both the Parties free of cost as per rules.

File be consigned to Record Room.

Announced on 20.10.2023.

**[SUKHVIR SINGH MALHOTRA]
PRESIDENT**

**[RAVI KUMAR]
MEMBER**

**[MS. RASHMI BANSAL]
MEMBER**