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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 5120/2013 & CM APPL. 11520/2013

BSES RAJDHANI POWER LTD. Petitioner
Through Mr. Sunil Fernandes with Mr. Deepak
Pathak and Ms. Mithu Jain,
Advocates

versus

RAM NATH SHARMA Respondent
Through None

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

ORDER
21.09.2015

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Present writ petition has been filed under Articles 226 and 227 of the Constitution challenging the notice dated 19th March, 2013 passed by the Consumer Grievance Redressal Forum (BRPL) [for short "CGRF"].

None is present for the respondent despite service. Even no counter-affidavit has been filed. Accordingly, this Court has no other option but to proceed ex-parte.

Mr. Sunil Fernandes, learned counsel for petitioner submits that CGRF had no jurisdiction to entertain the petition filed by respondent inasmuch as Regulation 8 of Delhi Electricity Regulatory Commission (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumers And Ombudsman) Regulations, 2003 [for short "Regulations,

2003”] prohibits CGRF from entertaining grievances arising under Sections 126, 127, 135, 139, 143, 152 and 161 of the Electricity Act, 2003 [for short “Act, 2003”].

Mr. Fernandes further submits that the impugned notice is contrary to the Division Bench’s judgment in *B.L. Kantroo vs. BSES Rajdhani Power Ltd., 154 (2008) DLT 56 (DB)*.

Having heard learned counsel for parties, this Court is of the view that it is first essential to refer to Section 42(5) of the Act, 2003 and Regulations 7 and 8 of the Regulations, 2003. The said provisions are reproduced hereinbelow:-

A) Section 42(5) of the Act, 2003:-

“42. Duties of distribution licensees and open access-

xxxx xxxx xxxx xxxx

(5) *Every distribution licensee shall, within six months from the appointed date or date of grant of licence, whichever is earlier, establish a forum for redressal of grievances of the consumers in accordance with the guidelines as may be specified by the State Commission.”*

B) Regulations 7 and 8 of Regulations, 2003:-

“7. Jurisdiction of the forum (1) *The Forum shall have the jurisdiction to entertain the complaints filed by the complainants with respect to the electricity services provided by the Distribution Licensee and to take up a matter suo-moto if the same fulfils the requirements specified in Regulation clauses (i) to (vi) of sub-regulation (f) of Regulation 3.*

(2) *The Forum shall entertain only those complaints where the complainant has approached the appropriate authority of the licensee as prescribed in the complaint handling procedure of the distribution licensee approved by the Commission from time to time and either is not satisfied with the response of the distribution licensee or there is no response within the time prescribed therein or within reasonable time:*

Provided that no complaint shall be entertained unless it is filed before the Forum within three months from the date the consumer exhausted the remedy under the complaint handling procedure or when no action is taken by the authority prescribed in that procedure within the period prescribed therein, from the expiry of such period as aforesaid, whichever is earlier:

Provided further that the Forum may, for reasons to be recorded in writing, entertain a complaint which does not meet the aforesaid requirements;

(3) The Forum shall not entertain a complaint if it pertains to the same subject matter for which any proceedings before any court, authority or any other Forum is pending or a decree, award or a final order has already been passed by any competent court, authority or forum or is frivolous or vexatious in nature:

8. Grievance filing *(1) The Forum shall take up any kind of grievance concerning with electricity supply to the consumers except the grievances arising under sections 126, 127, 135, 139, 143, 152 and 161 of the Act.*”

(emphasis supplied)

Keeping in view the aforesaid provisions, it is apparent that once an allegation of theft of electricity is levelled, CGRF would have no jurisdiction to entertain a complaint of a consumer

Consequently, the impugned notice is set aside. However, it is clarified that this Court has not expressed any opinion on the merit of the controversy and respondent is at liberty to file appropriate proceedings in accordance with law. With the aforesaid observations and directions, present petition and application stand disposed of.

MANMOHAN, J

SEPTEMBER 21, 2015

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