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

+ **W.P.(C) 10870/2006**

SHANTI MUKAND HOSPITAL

.....Petitioner

Through: Mr.Mohit Kumar Gupta, Adv.

versus

B.S.E.S.YAMUNA POWER LTD.

.....Respondent

Through: Mr.Manish Srivastava with
Mr.Moksh Arora, Advs for BSES.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINdra KUMAR KAURAV

ORDER

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12.08.2024

1. The petitioner in the instant case has prayed for the following relief:-

"(a) Quash the Disconnection Notice dated 16.6.2006 issued to the Petitioner by the Respondent.

(b) Quash by appropriate Writ the Supplementary Bill dated 27th May, 2006.

(c) Quash the Test Report dated 5.5.2006.

(d) Direct by Writ of Mandamus the respondent to restore the electricity connection to the petitioner hospital.

(e) Declare the disconnection notice dated 16.6.2006 as also the Supplementary Bill dated 27.5.2006 and the Disconnection of Supply by the respondent to be illegal.

(f) Pass such other order or orders as this Honourable Court may deem fit and proper in the facts and circumstances of the case."

2. The petitioner is essentially aggrieved by the supplementary bill raised by the respondents and consequential disconnection of the electricity connection in its premises without giving any heed to the representation submitted by the petitioner. It has raised various objections regarding the



correctness of the supplementary bill, which according to the petitioner has been calculated on the basis of erroneous assumptions. According to the petitioner, if at all there was any fault in the meter or wire connecting the same, the onus would lie on the respondents and not the petitioner. Thus, in light of the aforesaid, the petitioner has invoked the writ jurisdiction to redress his grievance.

3. However, looking at the nature of the grievances raised in the instant petition, it appears that the same can be adjudicated before the Consumer Grievance Redressal Forum (CGRF) in terms of Section 42(5) of the Electricity Act, 2003.

4. Recently, this Court, *vide* order dated 24.07.2024 in W.P.(C) 10079/2024 titled as ***Mr. Amrit Singh v. BSES Rajdhani Power Ltd. (BRPL) & Anr.***, has held as under :-

“13. In the case of Maharashtra Electricity Regulatory Commission v. Reliance Energy Ltd., the Supreme Court held that since the Act of 2003 has created CGRF, all the individual grievances of consumers have to be raised before such forum only. While affirming the decision passed by this Court in Suresh Jindal v. BSES Rajdhani Power Ltd. & Ors. and Dheeraj Singh v. BSES Yamuna Power Ltd., wherein, it was held that the CGRF and the Ombudsman has the authority to pass an interim order as well, the Supreme Court further held that Sections 42(5) and 42(6) provide a complete machinery for redressal of grievances of the consumers. The Supreme Court in the said case remitted the matter back to the CGRF for adjudication on merits. The relevant paragraphs of the decision in Reliance Energy (supra) are extracted as under:-

“33. As per the aforesaid provision, if any grievance is made by a consumer, then they have a remedy under Section 42(5) of the Act and according to sub-section (5) every distribution licensee has to appoint a forum for redressal of grievances of the consumers. In exercise of this power the State has already framed the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Ombudsman)



Regulations, 2003 (hereinafter referred to as “the 2003 Regulations”) and created Consumer Grievance Redressal Forum and Ombudsman. Under these 2003 Regulations a proper forum for redressal of the grievances of individual consumers has been created by the Commission. Therefore, now by virtue of sub-section (5) of Section 42 of the Act, all the individual grievances of consumers have to be raised before this forum only. In the face of this statutory provision we fail to understand how could the Commission acquire jurisdiction to decide the matter when a forum has been created under the Act for this purpose. The matter should have been left to the said forum. This question has already been considered and decided by a Division Bench of the Delhi High Court in Suresh Jindal v. BSES Rajdhani Power Ltd. [(2006) 132 DLT 339 (DB)] and Dheeraj Singh v. BSES Yamuna Power Ltd. [Ed. : (2006) 127 DLT 525 (DB)] and we approve of these decisions. It has been held in these decisions that the forum and ombudsman have power to grant interim orders. Thus a complete machinery has been provided in Sections 42(5) and 42(6) for redressal of grievances of individual consumers. Hence wherever a forum/ombudsman have been created the consumers can only resort to these bodies for redressal of their grievances. Therefore, not much is required to be discussed on this issue. As the aforesaid two decisions correctly lay down the law when an individual consumer has a grievance he can approach the forum created under subsection (5) of Section 42 of the Act. 34. In this connection, we may also refer to Section 86 of the Act which lays down the functions of the State Commission. Sub-section (1)(f) of the said section lays down the adjudicatory function of the State Commission which does not encompass within its domain complaints of individual consumers. It only provides that the Commission can adjudicate upon the disputes between the licensees and generating companies and to refer any such dispute for arbitration. This does not include in it an individual consumer. The proper forum for that is Section 42(5) and thereafter Section 42(6) read with the Regulations of 2003 as referred to hereinabove.”

[emphasis supplied]

14. Notably, the decision of this Court in the cases of Abhijit Anand v. Chairman Delhi Electricity Regulatory Commission and Ashok Yadav v. BSES Rajdhani Power Limited also aid to the similar position of law as has been rendered in the case of Ram Kishan (supra).



15. It is thus safely discernible from the aforementioned decisions that the submissions which have been made by the petitioner in the instant petition can also be looked into by the concerned authority which is provided under the Act of 2003.

16. In view of the aforesaid, leaving all contentions open to be raised before the appropriate authority, the Court is not inclined to entertain the instant petition and the same is dismissed alongwith pending applications.”

5. In view of the aforesaid, the petitioner is directed to take appropriate steps to approach the CGRF within a period of 30 days from today.
6. During the pendency of the proceedings before the CGRF, the interim protection granted by this Court on 11.07.2006 shall remain in force.
7. Accordingly, the instant writ petition stands disposed of.

PURUSHAINDRA KUMAR KAURAV, J

AUGUST 12, 2024/MJ