



**C A No. Applied for
Complaint No. 40/2020**

In the matter of:

Mohd SazidComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

1. Mr. Arun P Singh (Chairman)
2. Mrs. Vinay Singh, Member (Legal)
3. Dr. Harshali Kaur, Member (CRM)

Appearance:

1. Mr. Mr. N.K. Ray, Counsel for the complainant
2. Mr. Sanjay Ray & Mr. B.B. Sharma, on behalf of the respondent

ORDER

Date of Hearing: 13th October, 2020

Date of Order: 14th October, 2020

Order Pronounced by:- Mrs. Vinay Singh, Member (Legal)

Briefly stated facts of the case are that the complainant applied for new connection, but the respondent company rejected his application for new connection.

It is also his submission that he is owner of built up property bearing no. 895-896, GF, Right Side, Shop No. 895, Gali Chahshirin, Faras Khana, Near Main Road, Delhi. There are three stories in the said building.

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Kaur

Sanjay

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He further added that he applied for getting new connection at his shop on 19.11.19 vide request no. 8004214837 and the height of the building is below 15 metres from each side but the respondent company rejected his application for new connection on the pretext of building height more than 15 metres and fire safety clearance certificate is required.

Therefore, he requested the Forum to direct the respondent company for immediate release of the new connection.

Notice was issued to both the parties to attend the Forum on 28.08.2020.

The respondent company submitted their reply that new connection of electricity can be provided as per DERC Supply code and performance standard Regulation 2017. The new connections was applied by the complainant vide request no. 4214837 on 19.11.2019. The site of the complainant was visited; the application for grant of new connection was rejected for technical feasibility reason as the height of the building is found more than 15 metres (18.50 metre).

It was further their submission that as per DERC guidelines, the complainant has to submit fire clearance certificate for release of new connection.

The matter was heard on 28.08.2020, when the respondent filed their reply and complainant also filed affidavit along with some bills and property papers regarding height of the building. Forum directed to conduct a joint inspection of the premises of the complainant.

Joint inspection was done on the premises of the complainant on 01.09.2020, same is narrated below:-

1. Building is joint from 894-896.
2. Space available meter installation for outside.

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3. ELCB installed
4. Mumty not constructed
5. Building is constructed (on which meter is applied) GF+MF+03 floors
6. Stairs of both building goes from the beside building which is joint and constructed upto GF+5.

The joint inspection report of the respondent also shows that the height of the building where connection is applied is 14 metres.

It is pertinent to mention here that the complainant filed an affidavit that height of his building is less than 15 metres. He also submits copy of architects map and photographs of building numbers 895 and 896.

Matter was again heard on 23.09.2020, when complainant filed affidavit and photographs, copy of the same was provided to the respondent.

Again on 28.09.2020, respondent filed inspection report with photographs and connection details which they have energized in 2018 after the DERC Guidelines. Respondent was directed to resolve the matter amicably.

The respondent vide their mail dated 12.10.2020, submitted that site was again inspected and new connection applied by the complainant is not feasible as Site is incomplete.

Building is clubbed from 894-896.

Applied building stairs and beside building stairs goes from the one building which is constructed upto Ground floor+5 floor which is more than 15 metres.

Matter was finally heard on 13.10.2020, when complainant filed architect certificate. The building has three floors and its height is 14 metres. Respondent also submitted the details of the connections in the adjoining building. From their submission it came to knowledge of the Forum that the respondent has released more than two connections in the year 2018 and the height of the said building is more than 15 metres. Arguments of both the parties were heard. Matter was reserved for orders.

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The main issue in the present case is whether the connection to the complainant can be released or not.

We have gone through the submissions made by both the parties. From the narration of facts and material placed before us, we find as under:-

- That the height of the building is less than 15 metres, its exact height is 14 metres (as per site visit report dated 01.09.2020 submitted by the respondent).
- That the architect's map and site visit report shows the entrance of both the premises i.e. 895 and 896 are separate. The complainant is asking for new commercial connection in Shop No. 895, GF, Right side, Gali Chah Shirin, Farash Khana, Delhi-6.
- That the respondent has released the new connections in the same and adjoining buildings after the DERC Guidelines 2017.
- The entrance stairs of the buildings 895 and 896 are separate as shown in the respondent's joint inspection report and architect's map.
- The respondent submitted that there is same entry for both the buildings and after some stairs got bifurcated to each portion. To this the complainant submitted that his premises have separate entry and the height of the building is 14 metres. Also the connection is required in a shop on ground floor which has direct access to gali (lane) of main road.

As decided by many Hon'ble High Courts and Hon'ble Supreme Court, that electricity is essential requirement for the human life.

In the matter of Saifuddin Vs CESC limited, 27 H 29 Calcutta High Court. The Court is of opinion that electricity is the basic necessity.

In the matter of Durga Rani Singh Vs WBSDCL, 9 May 2016 Calcutta High Court, "A person is settled occupier of any premises is entitled to get electricity connection. The right to get electricity is considered as an extended Fundamental Right.





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We have also been through the judgment of Hon'ble Justice Kailash Gambhir, Judge of Hon'ble High Court of Delhi in W P C No. 3132/2010 where he stated as under:-

"That the electricity being an essential amenity cannot be denied to the petitioner.

The Forum is of the considered opinion, that complainant has fulfilled all the formalities for enjoying the electricity and the height of the building as objection raised by the respondent is less than 15 metres and also has separate entry/stairs. The respondent submitted that entry of both the buildings is same, after some stairs it is bifurcated but the complainant submits that building no. 895 has separate entry and building height is 14 metres in which he has asked for commercial connection. The shop in which connection is required is ground floor where no access from stairs is required. The shop has access directly from main road (gali).


In view of the above, if construction is going on, the respondent has apprehension that building height may cross 15 metres, so we direct as under


1. That the respondent should release the connection to the complainant as per DERC Guidelines.
2. The respondent is further directed to take an affidavit/undertaking that present height of the building shall not increase in present construction and should remain 14 metre (as per joint inspection report) in future also and same should also be part of the agreement for releasing the connection.
3. Respondent shall be free to disconnect the supply of the shop, if the complainant violates the rules and guidelines of DERC Guidelines.

The case is disposed off as above.

The compliance should be reported within 30 days. The order is issued under the seal of Consumer Grievance Redressal Forum (BYPL).


(HARSHALI KAUR)
MEMBER (CRM)


(VINAY SINGH)
MEMBER (LAW)


(ARUN P SINGH)
CHAIRMAN