



C A No. Applied For
Complaint No. 77/2021

In the matter of:

Javid Ahmed LawayComplainant

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. Nishi Kant Ray, Counsel for the complainant
2. Mr. Imran Siddiqi, Ms. Seema Rawat & Ms. Shweta Chaudhary, On behalf of BYPL

ORDER

Date of Hearing: 22nd September, 2021

Date of Order: 29th September, 2021

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

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

It is also his submission that he applied for new electricity connection at his premises no. 2721-2723, FF, Choti Baradari, Balli Maran, Delhi-110006. He further submits that he purchased said flat on 13.02.2018. The said building is old and constructed upto Ground to Fifth floor and all the other flats in the building have electricity connection.

Harshali

Jan
1 of 6

Complaint No. 77/2021

Complainant further submits that he applied for new electricity connection for domestic purpose vide request no. 8004768062 on 04.02.2021. Officials of the respondent visited the premises of the complainant for verification and through their deficiency letter rejected his application for new connection. He therefore, requested the Forum to direct the respondent company for immediate release of new connection.

Notices were issued to both the parties to appear before Forum on 23.08.2021.

The respondent company submitted their reply stating therein that complainant applied for new electricity connection vide application no. 8004768062 at premises no. H.No. 2721-2723, FF, Choti Baradari, Balli Maran, Delhi-110006. The application of new connection was rejected because the height of the building where new connection is applied of 21.20 meters. It is also submitted that building is constructed in two parts with common staircase between them, left hand side portion consist of GF+MF+5th floor and two shop exist under this portion. Right side building portion consist of GF+5th Floor. Total two shop exist under right side building. First floor of this part was found locked.

Respondent further added that site of the complainant was visited four times on 04.02.2021, 02.07.2021, 26.07.2021 and 17.08.2021 but all times premises found locked. Since commercial activity found at applied building hence benefit of 6th amendment of DERC is not applicable for this connection. Also the height of the building is more than 15 meters, in terms of Supply Code 2017, a fire clearance certificate is required. Respondent further added that energy dues amounting to Rs. 645/- against CA No. 100208197 and enforcement dues amounting to Rs. 224393/- of CA No. 400036434 is also required to be cleared.

Handwritten signature

Handwritten signature
2 of 6
Handwritten signature

Complaint No. 77/2021

The matter was listed for hearing on 23.08.2021, when respondent filed their reply and raised objection that in ground floor four commercial shops are existing. Also, at the time of hearing there are some dues on the premises on the first floor. During the pendency of the dues respondent has released two connections on the same floor. Verification on the part of the respondent, as per DERC 6th Amendment, only residential buildings to be consider. Both respondent and complainant were directed to seek clarification from DERC.

On hearing dated 03.09.2021, respondent submitted that site could not be inspected as the premises in question were locked. Forum decided that on 07.09.2021, the site would again be inspected in presence of complainant.

The matter was again heard on 17.09.2021, when respondent filed a notice regarding illegal extension of electricity, but not the inspection report. Respondent was directed to file inspection report.

Respondent vide their mail dated 02.09.2021 submitted copy of bills energized on the applied portion of the building. Both the connections were energized in 1976 and 1993. Respondent also submitted that applied portion has already electrified and there is no other separate dwelling unit.

Respondent also submitted site visit report. Site visit was conducted in the presence of Sh. Nishikant Ray (counsel of the complainant), Sh. Imran Siddiqi (counsel of respondent) and Ms. Seema Rawat, Sr. Manager, Div CCK. It was found that supply has been traced in presence of all and found that above mentioned meter no. 35600014 found connection on 4th floor of applied building.

The matter was finally heard on 22.09.2021, when both the parties were directed to file written submissions within two days. Arguments were heard and matter was reserved for orders.

Handwritten signature

Handwritten signature
3 of 6

Complaint No. 77/2021

The main issue in the present case is whether the connection can be granted to the complainant 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 that

- The complainant applied for new electricity connection on 04.02.2021 vide request no. 8004768062 but the respondent rejected his application for new connection on pretext of same site energy dues and enforcement dues. Also, building height more than 15 meters.
- Respondent submitted that at the first floor of the premises have only two separate dwelling units are there are already two connections on the first floor of the premises.
- The connection against CA No. 100318731 in the name of Mohd Zaki exists in the first floor providing electricity unauthorized to 4th floor of the premises and no separate dwelling unit. Connection is applied on the same flat.

As above, we are of considered opinion that the premises of the complainant where connection is applied first floor has two separate dwelling units and both the dwelling units already have electricity connections through CA No. 100223958 in the name of Mohd Sadiq and CA no. 100318731 in the name of Mohd Zaki. And no other separate dwellings unit is available

10. New and Existing Connections:- (1) General:- (vi) Wherever, one dwelling unit has been sub-divided and separate kitchen as well as separate entry is available, second electric connection may be given to the lawful occupant.

Handwritten signature

Handwritten signature
4 of 6

Handwritten signature

Complaint No. 77/2021

Also, there are commercial shops at the ground floor of the premises therefore; it does not cover under sixth amendment. So, the complainant is not entitled to get benefit of sixth amendment as the sixth amendment is only for residential buildings and also building height is more than 15 meters.

As per DERC (Sixth Amendment) order, 2021 dated 15.04.2021:

2.0(3) In case of residential buildings, for release of electricity connection the Distribution Licensee shall not insist for Fire Clearance Certificate for the residential building having height up to 15 meters without stilt parking and up to 17.5 meters with stilt parking.

The notification of DERC vide no. F.17(85)/Engg./DERC/2016-17/5403/487 dated 31.05.2019 it is clarified that the distribution licensee for release of electricity connection shall not insist for fire clearance certificate for the residential buildings having height upto 15 meters without stilt parking and 17.5 meters with stilt parking. The measurement of the height of the building shall be made in accordance with clause 1.4.16 and 7.19 of Unified Building Bye-Laws for Delhi 2016.

5 Hon'ble High court of Delhi in its judgment dated 29.05.2003 in CWP 27/10/1998 and CM 4780/2003 in the matter of Dr. B.L. Wadhwa Vs. Govt. of NCT of Delhi and Ors. has directed that in all high rise buildings in Delhi and New Delhi fire safety measures are to be adhered to.

In the High Court of Delhi in the matter of Vikas Singh Vs. Lieutenant Governor and Others in W.P. (c) 1476/2014 date of decision 20.01.2016, which is reproduced as under:-

As per Rule 27 (2) of the Delhi Fire Services Rules, 2010 on the ground of the same being not in consonance with the amendment vide Notification dated 23.09.2013 of the Master Plan for Delhi (MPD)-2021.

Handwritten signature

Handwritten signature
5 of 6

Complaint No. 77/2021

We are of the opinion that above referred reasons as the connection already exists on the same flat and no separate dwelling unit and building height is more than 15 meters as per sixth amendment not applicable due to commercial activities is going on ground floor. So, the grant of new connection is not possible due to above mentioned reasons.


The case is dismissed as above.

No order as to the cost. A copy of this order be sent to both the parties and file be consigned to record room thereafter.

The order is issued under the seal of CGRF.


(HARSHALI KAUR)
MEMBER (CRM)
29.7.21


(VINAY SINGH)
MEMBER (LAW)


(ARUN P SINGH)
CHAIRMAN
29.09.2021