

C A No. Applied For
Complaint No. 85/2022

In the matter of:

Mohd WahidComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

1. Mrs. Vinay Singh Member(Law)
2. Mr. Nishat Ahmad Alvi, Member (CRM)

Appearance:

1. Mr. Neeraj Kumar, Counsel of the complainant
2. Mr. Imran Siddiqi & Ms. Shweta Chaudhary, On behalf of BYPL

ORDER

Date of Hearing: 09th June, 2022

Date of Order: 14th June, 2022

Order Pronounced By:- Mrs. Vinay Singh, Member (Law)

Briefly stated facts of the case are that the complainant applied for new electricity connection but respondent has not released the new connections till date.

The complainant's grievance is that he applied for new electricity connection vide application no. 8005436431 at ground floor of premises no. E-13/A-37, GF, T-huts, New Seelampur, Near Puliya, Delhi-110053.

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He further added that earlier meter installed in the premises vide CA No. 101323678 in the name of Mohd Idrish was disconnected due to non-payment of dues. The enforcement dues against ID no. YM290816NS106 was settled in PLA and No Dues Certificate was issued by the officials. It was also his submission that all the regular or enforcement dues in the name of Mohd Shahid are of different address. Therefore, he requested the Forum to direct the respondent for immediate release of new connection.

Notices were issued to both the parties to appear before the Forum on 19.05.2022.

The respondent in their reply submitted that complainant applied for new electricity connection for domestic purpose vide request no. 8005436431 at E-13/A-37, GF, T-huts, New Seelampur, dated 29.01.2022. It is further added that during site verification it was found that enforcement and energy dues are outstanding against the premises sought to be electrified. Accordingly, the complainant was duly intimated about deficiency that he is required to clear pending enforcement and energy dues for release of the new connection. It is also submitted that two regular consumption bills pending vide CA No. 101322678 (Mohd Wahid S/o Mohd Idrish, E-13/A-37, JJ Colony, New Seelampur). And enforcement dues against CA no. 101210460, 401248017, 401232391 on the same name of Mohd Shahid, S/o Mohd Idrish exist on same premises.

The matter was listed for hearing on 19.05.2022, when respondent was directed to file statement of account of all the dues and what recovery steps has been taken by the enforcement or recovery team of the respondent to recover the dues pending since 2019 and the counsel of the complainant was directed to file rejoinder.

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The matter was finally heard on 09.06.2022, when respondent filed statement of account but certain enforcement dues are also pending which is beyond jurisdiction of the Forum. Forum has no right to decide this matter. Arguments of both the parties were heard and matter was reserved for orders.

The main issue in the present complaint is whether the connection can be released or not in favour of complainant.

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 in his name on 29.01.2022. Respondent rejected his application on grounds of pending enforcement and energy dues at the same premises in name of complainant and his brother Mohd Shahid.

On perusal of documents submitted on record the Forum also finds

- that the contention of the respondent is correct as there are pending energy dues of CA no. 101323678 in name of complainant itself amounting to Rs. 770006/- the said connection was disconnected on non-payment of dues.
- The enforcement bill in name of Mohd Wahid was settled by complainant in PLA on dated 16.02.2020 and also paid the amount of Rs. 23500/- on 03.03.2020.
- Other dues are in the name of Mohd Shahid against CA No. 151951511 amounting to Rs. 19509/-. Dues of direct theft bill amounting to Rs. 4,73,867/- which is settled by PLA for Rs. 1,70,000/- still pending for payment by the complainant or his brother. Another direct theft bill of Rs. 2,57,928/- and Rs. 1,14,708/- are also pending.
- Mohd Wahid and Mohd Shahid are brothers in relation as the address on the bills of both are same and also father's name is also same. Counsel of the complainant also admitted in the Court that both are brothers.

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In view of the above findings we are of considered opinion that for grant of new electricity connection the complainant has to clear all the pending dues at the premises. Also, as held by various Court's that dues are on the premises and for grant of new electricity connection one has to clear the dues.

In BSES Rajdhani Power Limited Vs Saurashtra Color Tones Pvt. Ltd. & ors., 2006, Delhi Law Times page no. 213, stated as under:

Electricity is public property. Law in its majesty benignly protects public property and behoves everyone to respect public property. No doubt dishonest consumers cannot be allowed to play truant with the public property but inadequacy of the law can hardly be a substitute for overzealousness.

As held by Hon'ble High Court of Delhi in Izhar Ahmad & Anr has stated "the intent of such a Regulation is to ensure that electricity companies do not have to 'run around' to recover their dues and any person who applies for re-connection makes payment of fraudulent abstraction charges before grant of new connection or reconnection of the said premises."

As decided by Hon'ble High Court and Supreme Court in many cases that the electricity charges cannot be waived off as decided by High Court of Delhi on 02nd March 2009 in the matter of Izhar Ahmed Vs. BSES Rajdhani Power Limited which is narrated below:-

"The intent of such a regulation is to ensure that electricity companies do not have to run around to recover their dues and any person who applies for re-connection makes payment of all dues including surcharges and payment of fraudulent abstraction charges before grant of new connection or reconnection of said premises."

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Therefore,


- we direct the respondent that whenever the complainant clears all the pending dues against the applied premises in his name and in name of his brother Mohd Shahid and completes all the commercial formalities, they should release the new connection to the complainant.

The case is disposed off as above.

No order as to the cost. Both the parties should be informed accordingly.

Proceedings closed.


(NISHAT AHMAD ALVI)
MEMBER (CRM)


(VINAY SINGH)
MEMBER (LAW)
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