



**CA No. Applied For**  
**Complaint No. 451/2023**

**In the matter of:**

Nisha .....Complainant

**VERSUS**

BSES Yamuna Power Limited .....Respondent

**Quorum:**

1. Mr. P.K. Singh, Chairman
2. Mr. Nishat Ahmad Alvi, Member (CRM)
3. Mr. P.K. Agrawal, Member(Legal)
4. Mr. S.R. Khan, Member (Technical)
5. Mr. H.S. Sohal, Member

**Appearance:**

1. Mr. Vinod Kumar, Counsel of the complainant
2. Mr. R.S. Bisht, Ms. Pragya Paliwal, Mr. Nishant Chauhan & Ms. Shweta Chaudhary, On behalf of BYPL

**ORDER**

Date of Hearing: 23<sup>rd</sup> January, 2024

Date of Order: 29<sup>th</sup> January, 2024

**Order Pronounced By:- Mr. H.S. Sohal, Member**

1. This complaint has been filed by Smt. Nisha against BYPL-LNR. The brief facts of the case giving rise to this grievance are that complainant Smt. Nisha applied for category change vide request no. 8006618913 against CA No. 152101077 installed at premises no. H-66, UGF, Laxmi Nagar, Delhi-110092, which OP rejected on mere ground of number not reachable.

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2. The respondent in reply briefly stated that the complainant is seeking change of category from domestic to non-domestic for electricity connection having CA No. 152101077 installed at upper ground floor of property no. H-66, Laxmi Nagar, Delhi-110092. The application of the complainant vide request no. 8006618913 was rejected as complainant could not be contacted due to mismatch in contact information. After receiving the correct contact number and upon communication the site of the complainant was re-visited on 11.12.2023 and the following observations were made:

- a) Applied building structure consists of ground+UGF+4 floors over it. On the top floor, a setup consisting of one room and a kitchen was found.
- b) Commercial activity was going on at the ground floor and on three floors above it i.e. till effective 4<sup>th</sup> floor.
- c) On the applied floor i.e. UGF, the complainant is running a garment shop and as such is requesting for category change from DX to NX.
- d) The other floors are being used as paying guest accommodation facility.

Reply further added that the application of the complainant for change of category falls under Regulation 17(5). As admitted by the complainant that domestic connection is used for non-domestic purpose, applicant is advised to change the usage from non-domestic to domestic or place on record Building Completion Certificate(BCC) or fire certificate to get the tariff category changed failing which he shall be prosecuted for misuse of connection as per law.

3. Counsel of the complainant in rejoinder refuted the contentions of OP as averred in their reply and stated that the complainant is having one temporary room at the top floor of the property in question and too for storage purpose only. He has applied for change of category as per DERC Regulations only.



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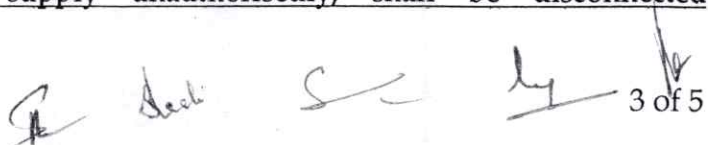
4. Heard both the parties and perused the record at length.
5. The main issue is whether the category change as applied by the complainant can be made effective where height of the building is more than 15 meters.
6. As far as legal position is confirmed according to DERC (Sixth Amendment) order, 2021 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.

4(1) In case the total height of such building is more than 15 meters without stilt parking and more than 17.5 meters with stilt parking, the distribution licensee shall:

- (i) release the electricity connection in the dwelling units which are within the height of 15 meters without stilt parking and within the height of 17.5 meters with stilt parking of the building, without insisting for Fire Clearance Certificate:
- (ii) in the dwelling units which are above the height of 15 meters without stilt parking and which are above the height of 17.5 meters with stilt parking of the building, the electricity connection shall not be provided unless the fire clearance certificate has been obtained:  
Provided that in case such dwelling units above 15 meters without stilt parking and above 17.5 meters with stilt parking of the building indulge in unauthorized connection from the system of licensee or from the live connection of any other consumer, the licensee may initiate an action as per provisions of Section 126, Section 135, Section 138 or any other section as may be applicable of the Electricity Act, 2003 and the electricity connection of such consumer who has provided the supply unauthorisedly, shall be disconnected immediately;

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In this sub-clause, two things are material - (a) that the unit is dwelling, b) that the height of dwelling unit is below 15 meters.

Here in the present case height of the building where the complainant is seeking new connection is above 15 meters and the unit shall no more remain as dwelling one, the very moment the nature of the unit is converted into commercial. Here admittedly the complainant is seeking conversion of domestic connection into commercial connection. After which complainant's ground for taking benefit of aforesaid sixth amendment no more remains available to him.

7. Hon'ble Delhi High Court in the case of W.P. (c) 2453/2019 has held "However, merely because some of the occupants of the building have wrongly been given an electricity connection, it cannot be ground for the court to direct respondents' no. 2 and 3 to further compound the wrong act and direct granting of a new electricity connection to the premises of the petition which is located in the building whose height is more than 15 meters."

In the facts and circumstances we are of considered view that even if the building is considered residential, complainant can't be allowed to get the category of a domestic connection changed into commercial unless and until Building Completion Certificate or fire safety clearance certificate is obtained.

*For Secret by*


*[Signature]*


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ORDER

The complaint is rejected. The request of the complainant for category change against CA No. 152101077 vide request no. 8006618913 at premises no.H-66, Laxmi Nagar, Delhi-110092, cannot be granted unless and until Building completion Certificate or fire safety clearance certificate is submitted to the OP. Case is disposed off as above.


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

  
(P.K.SINGH)  
CHAIRMAN

  
(S.R. KHAN)  
MEMBER-TECH

  
(NISHAT AHMAD ALVI)  
MEMBER-CRM

  
(P.K.AGRAWAL)  
MEMBER-LEGAL

  
(H.S. SOHAL)  
MEMBER

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