

C A No. Applied for
Complaint No. 155/2022

In the matter of:

Vikas & RadhaComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

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

Appearance:

1. Mr. Vinod Kumar, Counsel of the complainant
2. Mr. Imran Siddiqi, Ms. Shweta Bist, Ms. Divya Sharma & Mr. Shubham Singh, On behalf of BYPL

ORDER

Date of Hearing: 01st December, 2022

Date of Order: 06th December, 2022

Order Pronounced By:- Mr. P.K. Singh, Chairman

1. This complaint has been filed by Vikas & Radha against BYPL-SRD.
2. The brief facts of the case giving rise to this grievance are that complainant Vikas and Radha applied for new electricity connection at premises no. H.No. 385, Ward number XVI, FF, Joshi Toad, Karol Bagh, New Delhi vide request no. 8005714055, 8005714067, 80057114051,

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8005714075 & 800571408, but respondent rejected his application for new connection on pretext of premises under MCD objection list.

3. The respondent in reply briefly stated that complainant applied for new electricity connection at premises no. 395, ward no. XVI, common area and FF, Joshi Road, Karol Bagh, New Delhi-110005. The new electricity connections were applied by the applicant vide request no. 8005714067 and 8005714052 during site inspection it was found that pole and LT network encroachment/network by extending chajja/balcony and thus the requests for the new connections were rejected and the notice of accessibility was issued to the complainant for pole encroachment. OP further added that applied address was booked by NDMC.

OP further submitted that the complainant had encroached the electricity pole and LT network of the OP existed at site/premises of the complainant. This illegal construction/extension of the building is not only illegal and causing grave and serious threat to the public safety and residents of the locality and completely obstructing the respondent in operation/maintenance/repairing of the supply system.

4. Heard both the parties and perused the record.
5. The issue in this matter is can new connection be released in the premises which are booked by Municipal Corporation and also where there is pole encroachment.
6. Heard the arguments of Authorized Representative of the complainant and OP-BYPL. Representative of the complainant has submitted that

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As per record of Municipal Corporation of Delhi P.No. 395/13, Joshi Road, Karol Bagh booked vide file no. 06 dated 05.01.2018 in the name of Owner/builder/Sh. Vikas Kumar. As per record booking was done for ground, first, second, third and fourth floor alongwith projection on municipal land. The department has taken demolition action against the said property on 28.02.2018 at fourth floor and an amount of Rs. 5250/- deposited by the owner in municipal treasurer vide receipt no. 2509 dated 22.07.2022. The representative of complainant contented that they had made the above said payment amounting to Rs. 5250/- regarding demolition charges to MCD and now their premises are not booked by MCD.

Regarding the other objection of the OP related to pole encroachment, representative of the complainant submitted that they have demolished the extended chajja and also submitted photographs to substantiate their contention.

7. In this record, LR of OP submitted that the entire premises of the complainant i.e. from ground floor till fourth floor are booked by MCD on 29.01.2018 vide SMDC file no. B/UC/KBZ/2018/06 and they want building completion certificate from MCD for release of new connections. OP further added that the complainant has also encroached the pole; therefore also, they cannot release the new connection to the complainant.

8. Brief facts necessary for disposal of this complaint Vikas and Radha applied for new electricity connection at premises no. 385, ward no. XVI, FF and common area, Gali No. 13, Joshi Road, Karol Bagh, Delhi-110005 vide application no. 8005714055, 8005714067, 80057114051, 8005714075 & 800571408 for above mentioned address.

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It has been submitted that entire building i.e. from ground floor till fourth floor of above premises has been illegally constructed without following building bye laws. The complainant contented that he made the payment of building demolition charges and he has removed all the discrepancies regarding illegal construction, now there is no unauthorized construction at his premises.

The application of applicant has been rejected only on the ground that address of the premises for the new connection is under MCD objection list B/UC/KBZ/2018/06 dated 29.01.2018 due to unauthorized construction of the said premises. The NDMC has booked these premises under Section 343 & 344 of DMC Act 1957.

9. As far as legal position is confirmed according to DERC (Supply Code and Performance Standards) Regulations 2017, Rule 10 (3) for the new connection proof of ownership or occupancy is required.

Performa for new connection has been provided in DERC (Supply Code and Performance Standards) Regulations 2017 as annexure 1, seven declarations are required as per performa and in this case 5th one is important "that the building has been constructed as per prevalence building bye-laws and the fire clearance certificate, if required, is available with the applicant."

DERC (Supply Code and Performance Standards) Regulations 2017, Rule 11 (2)(iv)(c) shows that "the Licensee shall not sanction the load, if upon inspection, the Licensee finds that;

(c) the energization would be in violation of any provision of the Act, Electricity Rules, Regulations or any other requirement, if so specified or prescribed by the Commission or Authority under any of their Regulations or Orders.

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10. Hon'ble Delhi High court in case of Parivartan Foundation Vs. South Delhi Municipal Corporation & Others W.P. (c) 11236/2017 dated 20.12.2017 has laid down that

3. The BSES Rajdhani Private Limited and the Delhi Jal Board shall ensure that no connections are provided and water and electricity is not supplied to the buildings constructed in violation of law.

4. In case, the connections have been given to the buildings constructed in violation of law, appropriate steps in accordance with law shall be taken regarding those connections.

11. From above discussions it is clear that complainant has applied new connection for all the four floors of the building which was rejected on the pretext of improper distance and all the four floors booked under Section 343 and 344 of DMC Act vide letter no. B/UC/KBZ/2018/06 dated 29.01.2018.

Though the fourth floor of complainant was damaged being unauthorized construction and complainant has deposited Rs. 5250/- regarding this demolition of the fourth floor but it cannot be said that all the four floors made by complainant after the sanctioned map by MCD and there is no completion certificate of MCD that all the floors are constructed as per sanctioned map. Therefore, there is clear violation of DMC Act 1957. Hence, as per DERC (Supply code and Performance Standards) Regulations 2017 Rule 11 (2) (iv)(c) and Delhi High Court's order in case of Parivartan Foundation Vs SDMC & Ors. W.P. (c) 11236/2017 dated 20.12.2017, new connection cannot be given.

As far as improper distance from pole is concerned, complainant demolished the extended chajja. Even in case of premises have clear clearance, new connection cannot be released to the complainant, since the premises of the complainant is booked by MCD.

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12. Therefore, we are of the opinion that the premises have been constructed in violation of Rules and Regulations as per law. Therefore, OP cannot be compelled to release the connection.

ORDER:-

Complaint is rejected. Respondent has rightly rejected the application of new connection of the complainant.

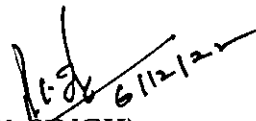
The case is disposed off as above.

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


(NISHAT A. ALVI)
MEMBER (CRM)


(P.K. AGRAWAL)
MEMBER (LEGAL)


(S.R. KHAN)
MEMBER (TECH.)


(P.K. SINGH)
CHAIRMAN