

C A No. Applied for
Complaint No. 239/2023

In the matter of:

Vinay Kumar

.....Complainant

VERSUS

BSES Yamuna Power Limited

.....Respondent

Quorum:

1. Mr. Nishat A Alvi, Member (CRM)
2. Mr. P.K. Agrawal, Member (Legal)
3. Mr. H.S. Sohal, Member

Appearance:

1. Mr. Neeraj Kumar, Counsel of the complainant
2. Ms. Ritu Gupta, Mr. R.S. Bisht & Ms. Shweta Chaudhary, On behalf of BYPL

ORDER

Date of Hearing: 10th August, 2023

Date of Order: 16th August, 2023

Order Pronounced By:- Mr. Nishat A Alvi, Member (CRM)

1. This complaint has been filed by Mr. Vinay Kumar, against BYPL-KWN.
2. The brief facts of the case giving rise to this grievance are that complainant Mr. Vinay Kumar applied for new electricity meter vide request no. 8006175546 at house no. A-36, FF, Kh. No. 28, A-block, RST Enclave, Kardam Farm, Johripur Extention, Delhi-110094.

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CGRF (BYPL)




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He also submits that respondent rejected his application for new connection on the pretext of Delhi- UP Area not confirmed.

3. The respondent in reply briefly stated that the complainant applied for grant of new electricity connection at premises no. A-36, First floor, Kh. No. 28, A-block, RST enclave, Kardam Farm, which is claimed to be part of Delhi.

OP further submitted that site of the complainant was visited and it was found that applied premise in issue falls in UP area. It is also submitted that left hand side and right hand side properties on front side of applied premises are having BYPL meters whereas on backside of applied premises there are UP Discom meters including LHS-RHS properties of back side. There is a sandwich network of BSES-YPL and UP Discom meters in the subject area.

OP further added that regarding BYPL meters the same were released in the year 2007. Connection bearing CA no. 150331522 shown to be energized on 24.01.2012, it is submitted that same was energized in the year 2007, however, name change was done in 2012 therefore, date of energization stands modified.

Pole no. KWNWB010 is the last pole of BYPL network and is already overloaded as per O&M team. The electricity network is HVDS. There are only 2 HVDS poles in the street i.e. pole nos. KWNWB010 and KWNWB008.

OP submitted that without prejudice and without in any manner admitting that applied premises does not fall in UP it is stated that there is unprecedented load growth due to DMRC network nearby and respondent is not in position to provide further connection in the subject area nor can respondent augment its existing network as subject area is beyond its licensed territory.



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4. In rejoinder to OP's reply, complainant reiterating his stand further states that electricity pole in front of property which comes between A-37 and A-38 A connection was released in 2007 in the name of Satish Kumar vide CA No. 101538509 and Vinay Kumar vide CA no. 150331522 dated 2012 and both power supply connection to pole no. KWNPWB10S1 since 2007. The address of the complainant belongs to Delhi since 2007 and many connections have been released by OP till date.
5. Heard both the parties and perused the record.
6. The main issue in the present case is whether the premise of the complainant falls in Delhi area or UP Area. If in Delhi then can the electricity connection applied for by the complainant be granted.
7. The onus, to prove that the applied premises fall in Delhi lies firstly on the person who wants connection claiming Delhi Jurisdiction i.e. complainant. In support of his contention complainant has placed on record copy of bill of OP, against connections given on premises no. A-37 and A-36 of the same Area. Aadhar Card depicting complainant's address as of Delhi and GPA set in complainant's favour. We have gone through various orders/judgments passed by various forums and Courts.
8. Against this evidence of complainant, the OP not denying the said connections states that the same were given in the year 2007, further stating that this is a sandwich network of BSES YPL and UP Discom meters in the subject area. BYPL network is already overloaded as per O&M team while there is unprecedented load growth due to DMRC network hereby. Besides, augmentation in the existing network is not

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feasible as the subject area is beyond its licensed territory. It is also contended that intermixing of Delhi-UP network amounts to safety hazard.

In the presence of aforesaid facts and circumstances for grant of complaint it is must to clearly establish that the applied premises fall in Delhi Jurisdiction so that intermixing Delhi-UP network may be cleared, to avoid safety hazard and further augmentation of OP network to be made to provide further connections in the said area.

We all are well aware that this question of jurisdiction is sub-judice before Hon'ble High Court of Delhi & Ors. also referred by OP showing filing of certain writ petitions. In Yashoda Devi Vs BYPL, Hon'ble High Court specifically observed that BYPL has already sanctioned about 700 connections and many of these have been given to consumers located in UP area. Some have also produced ration cards and election cards wrongly issued to people living in UP.

In the light of these judgments bills and copies of election I card of complainant can't be taken as final proof of jurisdiction unless and until a clear cut Revenue record is produced. Similarly, GPA set placed on record is not properly registered by Notary by giving Sl. No. can't be taken in proof of jurisdiction.

9. 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 light of this judgment even if certain connections are given wrongly it can't be a ground for grant of another connection.

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10. On the basis of above findings we reach to the conclusion that only conclusive evidence to decide jurisdiction is Revenue record of a particular state, which complainant despite so many opportunities is not able to produce. Hence, complainant has failed to provide that his premises fall in the jurisdiction of Delhi only and not in UP.


ORDER


The complaint being not maintainable is hereby dismissed against the complainant and in favour of the OP.

The case is disposed off as above.

No order as to cost/Compensation.


(H.S. SOHAL)
MEMBER


(NISHAT A. ALVI)
MEMBER (CRM)


(P.K. AGRAWAL)
MEMBER (LEGAL)

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