



C A No. Applied For
Complaint No. 07/2021

In the matter of:

BhagwatiComplainant

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 Siddiqui, On behalf of BYPL

ORDER

Date of Hearing: 12th February, 2021

Date of Order: 17th February, 2021

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

Briefly stated facts of the case are that the complainant applied for new connection and same has not been released by the respondent till date.

It is also her submission that applicant is owner of built up property bearing no. 4371, SF, Basti Data Ram, Pahari Dheeraj, Delhi-110006. An electricity connection with CA no. 100509273 was installed in the same premises in the name of complainant but was disconnected due to non-payment of dues. She further added that her property is situated in Jhuggi-Jhopdi area and she does not have any ownership document in her name.

Harshali

Vinay

Complaint No. 07/2021

It is further stated that she applied for new electricity connection at second floor on 03.10.2020 bearing application no. 8004573202 and the height of the building is less than 15 meters, but the respondent rejected her application for new connection for not producing property documents. Therefore, she requested the Forum to direct the respondent for release of new connection at the earliest.

Notices were issued to both the parties to appear before Forum on 01.02.2021.

The respondent company submitted their reply stating therein that the complainant applied for new connection vide request no. 8004573202 on 03.10.2020 but the complainant failed to provide ownership or occupancy documents, required as per Supply code hence, the application for grant of new electricity connection was rejected.

The matter was heard on 01.02.2021, when respondent was directed to submit point wise reply and also directed to explore possibility for an amicable solution and also to file K.No. file of the complainant's earlier connection having CA No. 100509273 which was disconnected.

On hearing dated 12.02.2021, the respondent submitted that K.No. file is not traceable. Respondent was directed to file affidavit stating that K.No. file is not traceable. Counsel of the complainant stated that complainant is ready to pay the pending dues against CA No. 100509273. Counsel of the complainant was directed to file an affidavit regarding pending dues which he is ready to pay also that the area where she resides is Jhuggi/cluster. Arguments were heard and matter was reserved for orders.

The main issue in the present case is whether the connection can be released 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 as per

Handwritten signature

Handwritten signature

Handwritten signature

Complaint No. 07/2021

DERC Supply Code 2017, Regulation 10, Sub-Regulation (2) and Sub-Regulation (3) (ix) which are stated below:-

10. New and Existing Connections:-

(2) **Proof of identity of the applicant:-** Any of the following documents shall be accepted as proof of identity:-

(i) electoral identity card;

(ii) passport;

iii) driving license;

(iv) ration card having photograph;

(v) Aadhar card;

(vi) PAN card;

(vii) photo identity card issued by any Government agency;

(viii) If the applicant is an organization, certificate of incorporation/ registration issued by the Registrar and proof of authorization /resolution of Board for authorizing the person.

Since, the Electricity and water is essential requirement for human being to run a normal life. As decided by Himachal Pradesh High Court, in Madan Lal Vs. State of Himachal Pradesh 2018 SCC online HP 1495 decided on 22.10.2018. Water and electricity supply a part of right to life under Article 21 of the Constitution of India.

Amarendra Singh Vs Calcutta Electric Supply ... on 10 January, 2008

In view of the provisions in Section 43 of the Electricity Act, 2003, the appellant herein being the occupier is entitled to enjoy the electricity at the occupied portion of the premises in question.

Abhimanyu Mazumdar & Others v/s The Superintending Engineer & Others

Whether unauthorized occupiers, encroachers of any premises and squatters of any premises are legally entitled to file an application under Section 43 of the

Handwritten signatures in blue ink.

Complaint No. 07/2021

Electricity Act, 2003 claiming status as 'occupier'. Then even an unauthorized occupier is entitled to get electricity connection in the same premises provided it shows that encroacher is in settled possession of the said premises.

According to notification dated 20.12.2020 of Ministry of Power, "occupier" means the owner, tenant or person in occupation of the premises where electricity is used or proposed to be used;

As per the directions of the Forum the complainant submitted an affidavit on dated 15.02.2021, stating therein she is owner/user of property no. 4371, SF, Basti Data Ram Pahari Dheeraj, Delhi -6 and residing with her family. That an electricity connection was installed on 28.10.2015 vide CA no. 100509273 in the name of Bhagwati. The said connection was disconnected around a year ago and she is ready to pay the outstanding dues of the said CA No. She also added that her property is situated in the abadi of Jhuggi/Jhopdi area and she doesn't have ownership documents.

Respondent also submitted an affidavit regarding the K.No file of CA NO. 100509273, which was energized on 03.09.2007 is not traceable in their record, and submitted Delhi Government's list showing Pahari Dheeraj Area is not covered under JJ cluster.

That the complainant is an occupier of property since 21.06.1995 and as per the Affidavit already a connection was energized in the year 2007 at the same premises in the name of the complainant which was disconnected by the respondent for non-payment of energy dues. Now for release of new connection the complainant is providing Aadhar Card, Ration Card and Electoral ID card as occupancy proof and as per DERC Guidelines the

Handwritten signature

Handwritten signature

Handwritten signature

Complaint No. 07/2021


connection can be released to the complainant who is already in occupation of the property and as per above stated Judgments and Ministry of Power Guidelines dated 20.12.2020, that if the occupier produced above referred documents, the connection can be released.

Therefore, we direct as under:

1. The complainant is directed to clear all the pending dues of disconnected connection having CA No. 100509273.
2. The respondent is directed to release the connection after fulfilling all the commercial formalities as per DERC Guidelines by the complainant.
3. The respondent is also given a warning to be careful while maintaining their record.

The case is disposed off accordingly.

Compliance report to be submitted by the respondent within 30 days from the date of this order.


(HARSHALI KAUR)
MEMBER (CRM)


(VINAY SINGH)
MEMBER (LAW)


(ARUN P SINGH)
CHAIRMAN