C G R F
B Y P L

Consumer Grievance Redressal Forum
FOR BSES YAMUNA POWER LIMITED
(Constituted under section 42 (5) of Indian Electricity Act. 2003)
Sub-StationBuilding BSES (YPL) Regd. Office Karkardooma,
Shahdara, Delhi-110032
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SECY/CHN 015/08NKS

C A No. Applied for
Complaint No. 31/2020

In the matter of:

Promila Khanna .....Complainant

VERSUS

BSES Yamuna Power Limited .....Respondent

Quorum:

1. Mr. Arun P Singh (Chairman)
2. Mrs.Vinay Singh, Member (Legal)
3. Dr. Harshali Kaur, Member (CRM)

Appearance:

1. Mr. Afzal Ahmed, Counsel for the complainant
2. Mr. Imran Siddiqi & Mr. B.B. Sharma, on behalf of the respondent

ORDER
Date of Hearing: 09th October, 2020
Date of Order: 14th October, 2020

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

Briefly stated facts of the case are that the complainant applied for new connection but the respondent company did not release her connection.

She further added that she applied for new connection vide order no. 8004015979 at her premises no. 1/12006, SF, Old No. 1618, Kuan Wali Gali, Uldhanpur, Shahdara, Delhi-110032. It is also her submission that the respondent rejected her applications for new connections on the pretext of building height more than 15 metres.

Attested True Copy
Secretary
CGRF (BYPL)

Complainant submitted that the respondent has released connections in many other buildings of same type and their building is old and constructed in 2013. Therefore, she requested the Forum to direct the respondent for releasing of new connections at the earliest.

Notices were issued to both the parties to appear before the Forum on 11.08.2020.

The respondent company submitted their reply that the complainant applied for new electricity connection vide request no 8004015979 dated 29.07.2019 at 1/12006, SF, Old no. 1618, Kuan Wali Gali, Uldhanpur, Shahdara. The building was inspected and it was found that the height of the building which is more than 15 metres so fire safety clearance certificate was required to release the connections. The site of the complainant was again visited on 04.03.2020 and as per the visti the building height is found to be more than 15 metres i.e. height of the building is 18.06 metres wherein Ground floor has an office, two rooms and two shutters in parking area, six flats in each floor and the building has ground floor, upper ground floor till third floor. Pertinently the area of the building is 600 sq. yards, hence, electric sub-station space is also required.

Respondent further added that there are 19 metres installed in the building and also there are dues on the premises vide CA no. 151561797 amounting to Rs. 19004/-, CA No. 151555960 amounting to Rs. 2296/- and CA No. 151563197 amounting to Rs. 1991/-.

Respondent further added that the benefit of relaxation given by DERC vide its notification dated 31.05.2019 cannot be given to the complainant. In the notification DERC clarified about the provision of Clause 4.4.3 (A) of MPD2021 which are as follows:

Maximum height of the building shall be 15 m in plots without stilt parking and 17.5 m in plots with stilt parking.

It was also submitted that in view of DERC guidelines, respondent rejected the complainant's application for new connection.

The matter was heard on 21.08.2020, when counsel for the complainant stated that he would file some documents related to the released connections in the same building. The complainant was directed to file the details of the connections which were released after 01.9.2017. The respondent was also directed to file an affidavit giving the details of the connections, which they have released after September 2017, in this locality/area.

Both the parties failed to submit the documents as directed by the Forum. They sought more time to file their submissions.

The complainant submitted her written submissions providing therein the details of the 19 connections in the building. All the connections are installed in the year 2015.

The complainant submitted additional submission in which they stated that CA no. 152496079, is released by respondent after the notifications of new Supply Code 2017.

The matter was finally heard on 09.10.2020, when the counsel for the complainant submitted one bill of Mr. Sharanjeet Sharma, which was released on 24.03.2018. Arguments of both the parties were heard and matter was reserved for orders.

The main issue in the present complaint is whether the connection may be released or not.

We have gone through all the facts of the case that as per following

Delhi Fire Prevention and Fire Safety Act 1986-Section 3,4,5,6,7,9,10-high rise building-fire safety-safeguards for protection of life and property of residents-failure of Delhi fire Safety Service to take requisite steps and performing statutory functions and duties as required by the Bye-laws-necessary directions, for taking action promptly, diligently and efficiency to see that fire safety measures provided in a building are in accordance with the building bye-laws, Delhi Fire Prevention and Fire Safety Rule 1986, Rule 5, building Bye-laws 2, 6, 7 and Constitution of India 1950, Article 2-to-6.

The minimum standards for fire prevention and fire safety measures specified for buildings or premises shall be as are provided in the building Bye-laws in 1983 or as may be amended from time to time thereafter, relating to the following matters:-

1. Means and access
2. Underground/overhead water static tanks
3. Automatic-sprinklers system
4. First aid Hose Reels
5. Fire extinguishers of ISI certification mark.
6. Compartmentation
7. Automatic fire detection and alarm system/Manually operate electrical fire alarm system.
8. Public address system
9. Illuminated exit way marking signs
10. Alternate source of electric supply
11. Fire lift with fireman switch
12. Wet riser down corner system

Also, in **NDMC vs. Statesman Ltd., MANU/SC/0057/1990: AIR990SC383**, the Apex Court had an occasion to consider the fire safety standards to be provided in the buildings. In that case bye-laws No. 16.4.8.1, which was borrowed from Part-IV dealing with "Fire Precautions" in the National Building Code of India, 1983 came to be examined by the Court. The Court pointed out that the National Building code of India, 1983, from which the substance of the bye laws are drawn, indicates that certain broad minimal assurances for fire safety and the better and more reliable measures ought not to be excluded.

The Apex Court in the case of M.C. Mehta Vs. Union of India SC/1123/1997 : (1997)3SCC715 pointed out the precautionary principle. With a view to protect the life of citizens, provisions of fire safety measures have been made compulsory and without the provisions no one can occupy the building where such safety is required to be provided. In the instant case it appears that despite the provision made, the authorities have allowed the builders/developers/organizers to permit the building to be occupied with essential services which ordinarily could not have been provided without occupancy certificate.

Division Bench of High Court of Delhi in the matter Dr. B.L. Wadhera Vs. Govt. of NCT of Delhi (2003) 105 DLT I, in the context of fire safety to be provided in high rise buildings held that fundamental rights are placed beyond the reach of ordinary legislations and directed the authorities **not to supply essential services unless and until the building is compliant with fire safety norms.** The petition was dismissed by the Hon'ble High Court because it does not cover all the aspects.

M S Azra Vs. State Govt. of NCT and ors. WP (C) 2453/2019 order dated 06.02.2020. The complainant filed a writ petition to get the electricity connection on the second floor, premises no. 3418, Gali Maliyaan, Bazar Daryaganj, Delhi. Connection was rejected by the respondent 2 & 3 because of the building height

is more than 15 metres. Fire clearance certificate is required. Hon'ble High Court opined that "it is not possible for this court to direct respondent 2 & 3 to grant the electricity connection in the absence of Fire Clearance Certificate and no dues."

DERC notification dated 31.05.2019, which clearly states that it is clarified that the distribution licensee for release of electricity connection shall not insist for fire clearance certificate for the residential buildings having height upto 15 metres without stilt parking and 17.5 meters with stilt parking. The measurement of the height of the building shall be made in accordance with clause 1.4.16 and 7.19 Unified Building bye-laws for Delhi 2016.

The forum is of the opinion, that the high rise buildings in Delhi either old or new, all the concerned authorities related to essential services shall take necessary action before granting their services to protect the human life and safety.

In view of above, the Forum directs the respondent as follows:

1. The respondent is directed to release the connection if the complainant fulfils all the formalities of DDA Bye-laws, Master Plan Delhi 2021, Delhi Fire Prevention and Fire Safety Rules and DERC Notification 2019.

The case is disposed off as above.

(HARSHALI KAUR)	(VINAY SINGH)	(ARUN P SINGH)
MEMBER (CRM)	MEMBER (LAW)	CHAIRMAN