

Consumer Grievance Redressal Forum

FOR BSES YAMUNA POWER LIMITED

(Constituted under section 42 (5) of Indian Electricity Act. 2003)
Sub-Station Building BSES (YPL) Regd. Office Karkardooma,

Shahdara, Delhi-110032

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SECY/CHN 015/08NKS

C A No. Applied for
Complaint No. 307/2023

In the matter of:

Anil GuptaComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

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

Appearance:

1. Mr. Suraj Aggarwal, Counsel of the complainant
2. Ms. Ritu Gupta, Mr. R.S. Bisht, Ms. Shweta Chaudhary & Ms. Chhavi Rani, On behalf of BYPL

ORDER

Date of Hearing: 10th October, 2023

Date of Order: 12th October, 2023

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

1. This complaint has been filed by Mr. Anil Gupta, against BYPL-NNG.
2. The brief facts of the case giving rise to this grievance are that complainant Mr. Anil Gupta applied for new electricity meter vide request no. 8006371405 at house no. M-18/1, Kh. No. 29, Mahavir gali,

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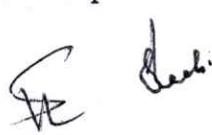
New Mandoli Industrial Area, Delhi-110093. He also submits that respondent accepted his application for new connection and released demand note, thereafter officials of the OP visited his premises for installation of meter but due to short service cable they were not able to install the meter and left. He also submitted that officials of OP stated that they need 110 meter cable for installation of meter and needs approval of higher authorities. Later, OP rejected his application for new connection on the pretext that his premises fall in UP area.

3. The respondent in reply briefly stated that the complainant applied for grant of new electricity connection vide application no. 8006354134 at premises no. M-18/1, Kh No. 2, Mahavir Gali, New Mandoli, which is claimed to be falling in Delhi. As per field executive service cable of 135 meters was needed whereas it was inadvertently punched that service cable of 35 meters was needed and accordingly demand note was generated. On generation of demand note team visited for meter installation which could not be installed as service cable of 135 meters was needed. Mail was issued to O&M department for their approval and assistance as long service cable was required. O&M vide its response mail dated 06.07.2023 informed that on site visit applied premises was found to be falling in UP. Site was visited on 07.07.2023 and on re-visit it was confirmed that applied area falls in UP.

It is also their submission that in earlier cases in respect of grant of electricity connections in the area falling UP and or Delhi-UP border as adjudicated by the Forum, OP has instituted appeal in the form of Civil Writ wherein the Hon'ble High Court of Delhi has stayed the order, passed by Learned Forum whereby OP was directed to release new connection in the areas which as per the site visit report of OP falls in UP.

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CGRF (BYPL)


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4. In rejoinder to OP's reply, complainant reiterating his stand further states that BYPL had released connection vide CA No. 100059147 in the complainant's premises. He also submitted that OP has got FIR registered in name of the complainant mentioning address as in Delhi. He further added that OP is releasing pre-paid connection in border areas and recently released CA no. 153633708 in the border area and he is also comfortable to get pre-paid connection.
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. Going through the documents placed on record by the complainant i.e. Khatuni record, we observe that the same have been issued by Delhi Authorities. OP itself states in its reply that no demarcation has been done of the area but claims that the same falls in UP but no documentary proof for the same is placed on record by it, in support of the claim.

While as per Provisions of the Evidence Act, onus to prove a fact lies only on the person who takes a particular plea. Not only this but also OP has failed to controvert the evidence placed on record by the complainant in the form of Khatauni document. Now OP claims the area being in UP jurisdiction, therefore, it becomes its duty to prove its case which OP has failed to, we have no option but to rely on the only evidence we find on record. Not only this, OP's plea of establishing its network in the year 2007 further strengthened complainant's case that

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OP's network/jurisdiction extends to complainant's premises. Now only question, The Forum has to decide, remains, as to whether as per Electricity Act, Rules and Regulations concerned connection in the applied premises is feasible or not. If feasible in our considered opinion complainant is entitled to the connection applied for.

8. We have also gone through various orders/judgments passed by various forums and Courts. In Ram Kumar Vs BSES Yamuna Power Limited, appeal no. 2/2021 Hon'ble Ombudsman has dealt with the same dispute of Jurisdiction particularly of Johripur Extension of Karawal Nagar Area of Delhi. Learned Ombudsman has observed that none of the two parties were able to produce Revenue record, further observing in Para-7 of its order that " the denial of the electricity connection by the Discom is purely based on conjectures, since they don't have any authenticated record to prove that the area lies in the state of U.P. Not only this, the order further states in the last of Para-7 that "the Discom also needs to look into the matter rather seriously and they can't deny the connection purely on the basis of hearsay, that the area lies in U.P. It is also observed that issue of demarcation of this area is still pending before the Hon'ble High Court.

In another case namely Human Fundamental Rights Association (Regd.) & Others Vs Union of India & ors W.P. © 6211/2012 Hon'ble High Court of Delhi has dealt with the question of jurisdiction. Facts of the case were the area in dispute had been developed as a colony of Delhi. As such its residents were issued Delhi I-cards, water connections, BSES electricity connection. Later on, demarcation took place, whereby about 209 of properties fall, partly in UP and partly in Delhi. Therefore, Discom

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disconnected the connections of premises which were falling in U.P. area. Aggrieved complainant challenged demarcation process by way of this writ petition, wherein Hon'ble High Court by way of interim order not only stayed disconnections but also allowed BSES-YPL to allow applications for new connections in the alleged UP area itself on pre-paid meters till proper demarcation took place.

In the light of above two judgments we observe that connection of electricity can't be rejected unless and until something concrete is brought forward to establish jurisdiction of a particular state. Discom can't take plea of jurisdiction unless a clear cut proof is provided by it to justify that area concerned is out of its jurisdiction.

In another case titled as Dilip (dead) LR Vs Satish SCC online SC810 dt. 13.05.22, Hon'ble Supreme Court has held that electricity is a basic utility, which person cannot be deprived off.

9. 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. Thus to produce the said record lies on both the parties. Here only complainant has filed khasra Girdhwries/khata, issued by revenue authorities of Delhi showing complainant's premises in Delhi. But OP has produced no such documents of U.P. state to establish the claim of premises to be falling in U.P.

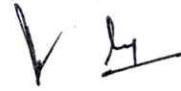
Electricity is a necessity as also held by various courts and it cannot be denied merely on non-clarity of jurisdiction. One who take the plea of no jurisdiction has to produce concrete/substantial proof thereof and cannot deny relief on the basis of hearsay only.

On the basis of aforesaid findings and in the light of order passed as aforesaid in our considered opinion OP has no substantial ground to reject complainant's application for new connection on the pretext of jurisdiction.

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CGRE/UPCL





ORDER

Complaint is allowed. Respondent is directed to release the connection applied for by the complainant in his premises, bearing no-M-18/1, Kh. No. 29, Mahavir Gali, New Mandoli Industrial Area, Delhi-110093 on pre-paid meter basis, after completion of all the commercial formalities subject to the condition, that grant of connection is feasible, keeping in view all the safety measures required as per Central Electricity (measures relating to safety and electricity supply) Regulations 2010, and OP shall be entitled to disconnect supply if later on Revenue Authorities after demarcation come to conclusion that the address concerned falls in U.P.

The case is disposed off as above.

No order as to cost/Compensation.

Deekha
(NISHAT A ALVI)
MEMBER (CRM)

h
(P.K. AGRAWAL)
MEMBER (LEGAL)

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

PKS
(P.K. SINGH)
CHAIRMAN
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12/10/23.

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Signature
Secretary
CGRF (BYPL)