

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-Station Building BSES (YPL) Regd. Office Karkardooma

Shahdara, Delhi-110032

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APPEAL IN CONCERN

C A No. Applied For Complaint No. 108/2024

In the matter of:

Chander Shekhar GuptaComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

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

Appearance:

1. Mr. Rizwan Ahmed, A.R. of the complainant
2. Mr. Akash Swami, Mr. R.S. Bisht, Ms. Chhavi Rani, Mr. Akshat Aggarwal & Mr. Lalit, On behalf of BYPL

ORDER

Date of Hearing: 29th August, 2024

Date of Order: 03rd September, 2024

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

1. Present complaint has been filed by the owner of shop no. 2, GF, premises no. 40, old premises no. 418, Gali No. 1, Sarpanch Ka Bada, Mandoli Fazalpur, Delhi-110092 against rejection of his request for new connection in his shop aforesaid. As per complaint, the complainant vide request no. 8006687942 applied for new connection

Complaint No. 108/2024

and against this request OP raised deficiency thereby stating that premises no. 418 A, Mandawali, is listed in MCD as booked, which is not my address as per GPA in my favour. Complainant has attached the said deficiency letter, which shows the deficiency of MCD booking as well as the height of the building being above 15 meters, thereby stating that for the requested connection BCC or Fire clearance certificate is required.

2. In reply to the complaint, OP has taken the plea that since against the deficiency of MCD booking and height of the building being more than 15 meters, the complainant was required to provide BCC/Fire clearance certificate which he failed to, therefore, the request of the complainant for new connection was declined by OP legally and validly.
3. In rejoinder to this reply, reiterating the contents of the complaint, the complainant states that he is the owner of premises no. 418, new no. 40, Sarpanch Ka Bada, Gali no. 1, Mandwali Fazalpur, Delhi-110092 and not the premises no. 418-A, as mentioned in the MCD booking list placed on record by the OP. Rejoinder further states that OP has not produced any evidence to show that the booked property is same as of the complainant. While, in the GPA in his favour as well as chain of the subject property, there is no mention of the premises no. 418-A except 418. The booking list also does not show complete address of the booked property. Besides one more premises by the no. 418A also exist in Gali No. 2 of Shankar Marg. Rejoinder also states that the subject property was completely built up in the year 2017 itself then how the same can be booked in the year 2018. However, rejoinder has admitted that the height of the building is more than 15 meters. Further agitating that as he is requiring connection on the GF only. Therefore, it makes no difference even if building is more than 15 meters.

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Secretary
CGRF (BYTL)

S. Sree Deekshith

4. Complainant in support of his contentions placed on record copy of GPA in his favour and as well as in favour of the earlier owner from whom he has purchased the subject property. Besides complainant has also filed copies of the bills of the connection granted by the OP on various floors on the subject building. On the other hand, OP has filed its IR alongwith MCD booking list dated 13.04.2018 and certain bills of the connections issued by it in the subject premises.
5. Heard both the parties and perused the record.
6. As per pleadings, grounds for rejection of the connection by the OP are two folds. Firstly, the subject premise is booked in the MCD and secondly height of the building is more than 15 meters. With regard to MCD booking complainant alleges that the booked property is different than the applied premises. As per booking list the premises number is shown as 418-A while his premise no. is 418 only. It is also alleged by the complainant that the subject building was constructed in the year 2017 and a number of electricity connections were also issued in that building in the year 2017 itself while the booking is of the year 2018. In this regard, we perused the MCD list which shows premises no. as 418-A. We also perused GPA in favour of the complainant executed in the year 2017 which shows no. of his premises as 418 and not 418-A. The bills placed on record by both the parties also show that various connections were granted by OP in the year 2017 showing the premises no. 418 and not 418-A.

Going through the visit report placed on record by OP we find that OP reports that there is no building by the no. 418-A, while there are three buildings by the no. 418, hence the booked building is same as applied for. The only reason to conclude this is that, this is the only building having G+5 floors; therefore it is the booked building.

7. We don't find any substance in this argument of OP. Merely on the basis of suspicion, the OP can't conclude that the booked building is same as applied building.

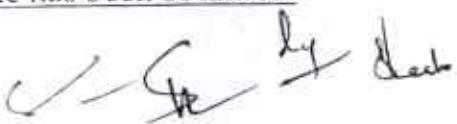
Regarding second issue of height, complainant himself in his rejoinder has admitted that height of his building is more than 15 meters. Only ground complainant takes it that the applied premises are on GF, height whereof is below 15 meters and as per sixth amendment order 2021, he is entitled for connection considering height of the applied floor only. Relevant provision is given in the Schedule of Charges and Procedure (Sixth Amendment) Order, 2021 (date of order 15.04.2021) Clause 2(3) and clause 2(4)(1) as under:

Clause 2(3) In case of residential buildings, for release of electricity connection the Distribution Licensee shall not insist for fire clearance Certificate for the residential building having height upto 15 meters without stilt parking and upto 17.5 meters with stilt parking.

Further, clause 2(4) (1) provides:- In case the total height of such building is more than 15 meters without stilt parking and more than 17.5 meters with stilt parking and the distribution licensee shall:

- i) Release the electricity connection in the dwelling units which are within the height of 15 meters without stilt parking and within the height of 17.5 meters with stilt parking of the building, without insisting for Fire Clearance Certificate;
- ii) In the dwelling units which are above the height of 15 metres without stilt parking and which are above the height of 17.5 meters with stilt parking of the building, the electricity connection shall not be provided unless the fire clearance certificate has been obtained:

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CGRF (ECS)

8. Going through this amendment, we find that it is applicable only on residential/dwelling units. But the applied connection is commercial. Thus complainant can't take benefit of this amendment.

In this regard, OP has placed on record an order of Hon'ble Ombudsman in the matter of Sh. Firoz Ali Vs BSES in appeal no. 21/2023 dated 27.07.2023 which specifically holds that in case of commercial building ~~that~~ the height of building in totality is taken into consideration and not the height of a particular floor. This order also clarifies that the DER's 6th amendment dated 15.04.2021 applies only to residential buildings and not to commercial buildings.

On the basis of aforesaid findings, though the OP has failed to prove beyond doubt that the applied premises are booked by MCD but the applied connection is of commercial category. It is also an admitted case that total height of the building is more than 15 meters. As per settled position in case of commercial connection if height of building is above 15 meters the regulation requires fire safety clearance certificate/BCC, for grant of connection. Now since complainant has failed to provide the said certificates, OP has rightly rejected complainant's request for connection.

Accordingly, the complaint is dismissed as not maintainable.

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


(S.R. KHAN)
MEMBER-TECH


(NISHAT AHMAD ALVI)
MEMBER-CRM


(P.K. SINGH)
CHAIRMAN

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Secretary
CORF (BYPL)


(P.K. AGRAWAL)
MEMBER-LEGAL


(H.S. SOHAL)
MEMBER