



C A No. Applied For
Complaint No. 103/2024

In the matter of:

Darvinder SinghComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

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

Appearance:

1. Mr. Imran Ul Haq Siddqi, Counsel of the complainant
2. Mr. Deepak Pathak, Ms. Chhavi Rani & Mr. Akshat Aggarwal, on behalf of respondent.

ORDER



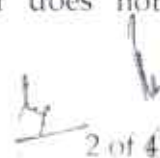
Date of Hearing: 09th July, 2024
Date of Order: 23rd July, 2024

Order Pronounced By:- Mr. P.K. Agrawal, Member (Legal)

1. The complaint has been filed by Mr. Darvinder Singh against BYPL- Paharganj. The brief facts of the case giving rise to this grievance are that Mr. Darvinder Singh applied for new electricity connection vide request no. 8006735896 at premises no.1032, 3rd Floor, Pan Mandi, Sadar Bazar, Delhi-110006 but respondent rejected the application of the complainant for new connection on pretext of requirement of fire safety clearance certificate as height of the building is G+4 and there exists a small tin box on the top floor.

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2. OP in its reply briefly stated that the complainant is seeking new electricity connection in violation of law and as such the present suit is liable to be dismissed. The present complaint for new connection is rejected as the building height is more than 15m, hence safety certificate is required. It is admitted fact that building height is more than 15mtrs and as per law NOC or fire clearance is required. As per law for grant of connection in such building admittedly the complainant has not placed on record the architect letter to show that the height of the building is less than 15 mtrs. It is admitted fact the there is no fire clearance certificate that has been filed. As per law and as per DERC supply code 2017 notification, the premises having height of more than 15 meters, cannot be granted new electricity connection unless there is fire clearance certificate from the concerned agency/authority, as such the electricity connection is being sought in violation of the provision of law as prescribed under the supply code and such the present suit is bad in law.
3. In response to the reply the complainant filed rejoinder. The complainant has applied electricity connection at premises no. 1032, 3rd Floor, Pan Mandi, Sadar Bazar, Delhi-110006. He denied the allegation of OP as stated in their reply that applied building height is above fifteen and the complainant has to submit building completion certificate issued from the MCD for release of his new connection claiming that the building of the complainant is built ground plus five floors. It is also submitted that a small temporary tin structure exist on the top floor which does not amount to a complete floor and to which OP claims to be fifth floor of the building. Respondent is wrong as applied premises is built upto fourth floor and is under 15 mtrs hence no BCC is required from the concern authority as temporary tin structure above fourth floor does not constitute as a floor.

  
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OP has never asked the complainant to submit architect certificate for release of new connection earlier however the complainant is ready to submit architect certificate if OP undertakes to release new connection of the complainant upon submission of the same.

4. Counsel of the complainant filed additional submissions stating therein that his application for new connection is rejected only due to the tin structure built over the roof of fourth floor of the building. He along with his additional submission emphasis the earlier orders of the Forum in CG No. 186/2023 in the matter of Mohd Yasin Vs BYPL, where Forum has directed to increase the load of the connection of the complainant considering tin shed as temporary structure.

5. Heard Arguments of both the parties.

6. From the perusal of documents placed on record we find that the building height is ground plus four floors over it. OP is considering the tin shed over fourth floor as the fifth floor and contenting that building height is exceeding 15 meters, thus fire clearance certificate is required. We also find that the IR report submitted by OP shows plot area is 200 and the photograph placed on record shows a very small area covered by the tin sheets.

Now the question arises that since it is business building, same is also evident from the photographs in IR, and can new connection be granted on third floor under non-domestic category.

7. In view of the above, we are of the opinion that the new electricity connection as applied for by the complainant under non-domestic category for a load of 1 KW on 3rd floor of applied premises cannot be granted.

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8. In respect of height of the building and as to how it is to be measured a circular/letter dated 28.11.2019 was issued by Govt of NCT of Delhi wherein it is stated as under:-

Discoms have submitted that: there are several instances where the applicants do not agree with the results of the building height as measured by DISCOM official during the field inspection process. In this regard, it is informed that the unified Building Bye-laws for Delhi stipulate the provision for building: of height as under:

1.4.16 Building height:

a. The vertical distance in the case of flat roofs is measured from the height surrounding road level/ground level up to the top of structural slab, excluding machine room, irrespective of location of entry level.

b. In the case of pitched roofs, up to the point where the external surface of the outer wall intersect the finish surface of the sloping roof and in case of gable facing the road, the mid-point between the eaves level and on the ridge.

Architectural features: serving no other function except that of decoration and other building components "mentioned in-clause no. 7.19 shall be excluded for the purpose of taking height.

d. If the building does not abut on a street, the height shall be measured from the highest level of the ground immediately adjacent to the building."

"7.4.9 Height exemptions:

The following structures shall not be included in the height of building covered under Building Bye Laws.

- i. Roof tanks and their supports not exceeding 1.8 m.*
- ii. Ventilating apparatus, air conditioning equipments and lift machine room(s) if required as per the specification of lift manufacturer and similar equipments.*
- iii. Stair covered with mummy not exceeding 3.0 m in height.*
- iv. Chimney and parapet wall not exceeding 1.5 m in height.*
- v. Screen wall upto the height of 1.8 m.*
- vi. Solar panel fixed on terrace as per 7.17.2 (p).*



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9. Counsel of the complainant submitted additional submissions in which he mentioned previous order of the Forum in CA no. 186/2023 in the matter of Mohd Yasin, in which there was tin shed at the top floor and Forum has ordered to enhance the load of the complainant considering the tin shed as temporary structure.
10. From the perusal of the above, we find that the order of the Forum which complainant has placed on record is entirely different from the present case. In the matter of Mohd Yasin, the complainant has applied for load enhancement, where new electricity connection is already energized but in the present case the complainant has applied for new electricity connection. We also find that the picture of the tin shed placed on record shows that though the roof of the tin shed is of tin but it should not be considered as temporary structure as it is clearly visible that the structure is being used for some work and not for storing purpose only.
11. Therefore, in view of the above stated building bye laws, we are unable to give any relief to the complainant.

ORDER

The complaint is rejected. OP has rightly rejected the application of the complainant for new connection for want of Fire Safety Clearance Certificate. If the complainant in future produces the fire safety clearance certificate, OP should release the new electricity connection to the complainant after completion of all other commercial formalities as per DERC Regulations 2017.

OP is further directed to file compliance report within 21 days from the date of this order.

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The case is disposed off as above.

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


(S.R. KHAN)
MEMBER -TECH


(P.K. SINGH)
CHAIRMAN


(P.K AGRAWAL)
MEMBER -LEGAL


(NISHAT AHMAD ALVI)
MEMBER-CRM

(H.S. SOHAL)
MEMBER