

C A No. Applied for
Complaint No. 265/2024

In the matter of:

Deepanshu SharmaComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

1. Mr. P.K. Singh, Chairman
2. Mr. P.K. Agrawal, Member (Legal)
3. Mr. S.R. Khan, Member (Technical)

Appearance:

1. Mr. Akash Ruhela, Counsel of the complainant
2. Ms. Kavya, Mr. R.S. Bisht, Mr. Akshat Aggarwal & Mr. Lalit, On behalf of BYPL

ORDER

Date of Hearing: 17th September, 2024

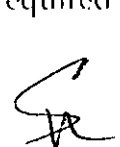
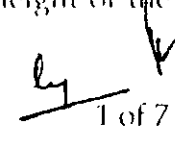
Date of Order: 30th September, 2024

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

1. The brief facts of the case giving rise to this grievance are that the complainant applied for new electricity connection at premises no. MPL No. XVI/10604 (13/19), Pvt. No. 15, SF, Plot no. 19, block no. 13, Western Extension Area, Karol Bagh, Delhi-110005, vide request no. 8006874480. The application of complainant was rejected by OP on the pretext of address appearing in MCD list and joint property with property no. 13/20 and Architect Certificate required for height of the building.

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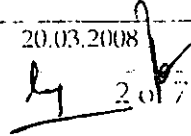
2. The respondent in their reply briefly stated that the complainant applied for a new electricity connection under non-domestic category at property no. MPL No. XVI/10604 (13/19), Pvt. No. 15, plot no. 19, Block No. 13, Western Extension Area, Karol Bagh, New Delhi-110005, vide request no. 8006874480. Reply further states that on site verification it was found that the property no. 13/19 and 13/20 is joint property and the building structure consists of the basement plus ground floor plus four floors over it. The applied premises were found locked. Already several connections were found installed in the applied premises, details thereof are as follows:

S.No.	Meter No.	Category	DOE
1	55106330	NX	10.05.2010
2	55425887	NX	04.06.2009
3	55106276	NX	30.08.2010
4	55106365	NX	04.08.2009
5	55106363	NX	24.06.2008
6	70152901	NX	05.10.2009
7	55106349	NX	11.06.2009
8	70127231	NX	13.08.2007
9	55414816	NX	20.06.2023
10	55106292	NX	22.12.2010
11	55106317	NX	30.08.2010
12	55106295	NX	06.08.2010
13	55106301	NX	01.08.2011
14	55104148	NX	06.05.2013
15	55414870	NX	09.09.2022
16	35880306	NX	08.11.2006
17	55104030	NX	21.02.2008
18	55106349	NX	11.06.2009
19	55104136	NX	16.06.2008
20	55104036	NX	22.12.2006
21	70144730	NX	08.04.2011
22	70144371	NX	22.12.2006
23	55104039	NX	20.03.2008

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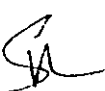

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Reply further added that upon inspection, the application of the complainant was rejected as the premises bearing no. 13/20 is joint with applied premises and said premises was found booked by MCD.

3. Counsel of the complainant filed rejoinder refuting therein the contentions of the respondent as averred in their reply and submitted that OP has released several new connections in the subject property.
4. Arguments of both parties are heard at length.
5. From the narration of facts and material placed before us we find that the OP raised two fold objections for rejecting the application of the complainant firstly, the building structure is basement plus ground plus four floors over it thus making building height more than 15 meters and Secondly, the applied address is appearing in MCD objection list.
6. During the pendency of the case in the forum, both the complainant as well as the OP was directed to file Architect Certificate and height of the building respectively to ascertain the actual height of the building. The counsel of the complainant filed Architect Certificate stating that the building is comprised of basement, ground floor, first floor, second floor, third floor and fourth floor. The height of the building from road level upto fourth floor 15.0 meter approx and is accordance with the building bye laws.

The site visit report submitted by OP states that 13/19 and 13/20 are joint properties. Building height found 17.30 approx (G+4). Building structure B+G+4.

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7. As far as legal position is confirmed according to New connection application form issued by DERC, point no. 5 of the undertaking states, "That the building has been constructed as per prevalent building Bye-laws and the total height of the building

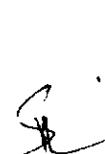
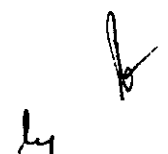
- (i) Does not exceed 15 (fifteen) meters on the date of seeking service connection: or
- (ii) Is more than 15 (fifteen) meters and fire clearance certificate is available with the applicant.

Further, DERC vide order dated 15.04.2021, issued sixth amendment, states DERC (Sixth Amendment) order, 2021 dated 15.04.2021:2.0

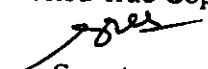
(3) In case of residential buildings, for release of electricity connection the Distribution Licensee shall not insist for Fire Clearance Certificate for the residential building having height up to 15 meters without stilt parking and up to 17.5 meters with stilt parking.

4(1) 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, 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 meters 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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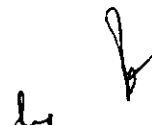

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DELHI FIRE SERVICE RULES, 2010 UNDER DELHI FIRE SERVICE ACT, 2007 (DELHI ACT 2 OF 2009)

27. The following classes of occupancies likely to cause a risk of fire, occupancies for the purposes of sub-section (1) of section 25 of the Act shall be construed to likely cause a risk of fire, namely:-

- (1) Pandal having seating capacity more than 50 persons or covered area more than 50 square meters.
- (2) Residential buildings (other than hotels and guest houses) having height more than 15 meters or having ground plus four upper stories including mezzanine floor.
- (3) Hotels and guest houses having height more than 12 meters having ground plus three upper stories including mezzanine floor.
- (4) Educational buildings having height more than 9 meters or having ground plus two upper stories including mezzanine floor.
- (5) Institutional buildings having height more than 9 meters or having ground plus two upper stories including mezzanine floor.
- (6) All Assembly buildings.
- (7) Business buildings having height more than 15 meters or having ground plus four upper stories including mezzanine floor.
- (8) Mercantile buildings having height more than 9 meters or having ground plus two upper stories including mezzanine floor.
- (9) Industrial buildings having covered area on all floors more than 250 square meters.
- (10) Storage buildings having covered area on all floors more than 250 square meters.
- (11) All Hazardous buildings having covered area on all floors more than 100 square meters.
- (12) Underground Structures

 
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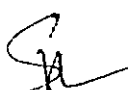
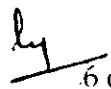
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8. Regarding the first objection of OP, that property is joint property and booked by MCD, in this regard OP has not filed any relevant documents in support of their contention and no proper MCD list is being provided by OP which proves that under which section the premises of the complainant are booked. Moreover, the alleged booking is for property no. 13/20 whereas the complainant has applied for new connection on premises no. 13/19. The Architect Certificate submitted by the complainant states that the building height upto fourth floor is 15.0 meter approx whereas the building structure is ground plus four floors over it making it effective fifth floor and the site visit report submitted by OP shows height of the building 17.3 meters.

Despite their objection of booking, OP itself has released a new electricity connection the said premises in the year 2023 which is clearly evident from the reply filed by OP and the details provided by them of the connections installed in the subject premises. Hon'ble Delhi High Court in the case of W.P. (c) 2453/2019 has held "However, merely because some of the occupants of the building have wrongly been given an electricity connection, it cannot be ground for the court to direct respondents' no. 2 and 3 to further compound the wrong act and direct granting of a new electricity connection to the premises of the petition which is located in the building whose height is more than 15 meters." Therefore, if OP has done something wrong/granted new electricity connection then it cannot be ground for the Forum to further compound the wrong act and direct granting a new electricity connection to the premises.

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9. Going through this above stated Application form for new connection and sixth 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. On the basis of aforesaid findings, it is 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. Therefore, the complainant is directed to file fire safety clearance certificate for release of new electricity connection as applied for by him.

ORDER

The complaint is allowed with direction to OP to release the new electricity connection as applied for by the complainant after submission of fire safety clearance certificate and completion of other commercial formalities as per DERC Regulations 2017.

The case is disposed off as above.

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


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


(P.K. AGRAWAL)
MEMBER (LEGAL)


(P.K. SINGH)
CHAIRMAN

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