



C A No. Applied for
Complaint No. 81/2024

In the matter of:

Gopal Mandal

.....Complainant

VERSUS

BSES Yamuna Power Limited

.....Respondent

Quorum:

1. Mr. P.K. Singh, Chairman
2. Mr. Nishat A. 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. Imran UI Haq Siddiqi, Counsel of the complainant
2. Ms. Ritu Gupta, Mr. R.S. Bisht & Ms. Chhavi Rani, on behalf of respondent

ORDER

Date of Hearing: 06st August, 2024

Date of Order: 13th August, 2024

Order Pronounced By:- Mr.S.R. Khan, Member (Technical)

1. The brief facts of the case giving rise to this grievance are that the complainant applied for new electricity connection at premises no. 708, 4th Floor, West Guru Angad Nagar, Laxmi Nagar, Delhi-110092, vide requests no. 8006715087. The application of complainant was rejected by Opposite Party (OP) BYPL on the pretext of Building height more than 15 meter, BCC/Fire Clearance Certificate required and Pole inside the premises.

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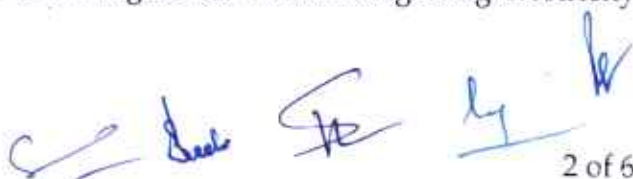
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2. The respondent in reply briefly stated that the present complaint has been filed by complainant seeking for new connection for the fourth floor of premises bearing no. 708, West Guru Angad Nagar, Laxmi Nagar, Delhi-110092, vide requests no. 8006715087. The application of the new connection was rejected on account of pole encroachment and also for the reason that the applied floor is effective sixth floor hence floor height is more than 15 meter. As such applicant is required to submit as per DERC Regulations, Fire Safety Clearance or a Building Completion Certificate (BCC) in lieu thereof.

That upon inspection of such premises it was discovered that applied building structure is Ground Floor, Upper Ground Floor and four floors over it. The applied floor is fourth floor and if counted from ground floor it is effective sixth floor. The O & M team of respondent inspected the site and found that the pole has been encroached in such a way that now it is not feasible even to carry out normal maintenance work of the pole as it is not possible for a lineman to fix a ladder on pole bearing no. LNRB547.

Thus height of floor is more than 15 meters as also observed by Hon'ble High Court of Delhi in its Judgment titled as Ms. Azra VS The State (G.N.C.T. of Delhi) and 6th February, 2020 passed by Justice Jayant Nath wherein he observed as under: - "Admittedly there are five to six floors in the building i.e. the height is bound to be above 15 meters".

It is submitted that in the applied building there are already 11 electricity meters. In respect of all said connections accessibility notices vide diary no. AVP(O&M) LNR/L. No. 170 to 180 all dated 18.01.2024 stands issued to all registered consumer getting electricity from subject pole.


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3. Counsel for the complainant in its rejoinder refuted the contentions of the respondent as averred in their reply and submitted that OP has released several connections including CA No. 154251567 last year. Complainant is ready to submit BCC from the MCD if the OP agrees to release the connection of the complainant. Complainant stated that respondent on one hand has given the connection in year 2016, to the consumer of Upper Ground Floor which is near to the Pole, claiming that no distance has been maintained, whereas the complainant's flat is on Fourth Floor, which is at distance from the pole, where the new connection is applied. 10 other connections are granted on the floors below the floor of the complainant. Further the accessibility notices issued to the already installed connection in the building is a mere afterthought (after filing of present complaint) and was as the OP has released several connections to the adjacent building where the pole is touching/near the building and lastly in September 2023 connection CA No. 154251567 was released by the OP.
4. To confirm the statement of counsel of the complainant both the parties were directed to conduct joint site visit. Joint visit report dated 06.06.2024 place on record stated as under:-
- a) Applied building structure is Ground+5 Floor.
 - b) Supply of meter no. 35876530 is from pole no. LNRB547 & not from LNRB546.
 - c) Applied building found pole encroached; lineman can't work on pole with safety rope/belt.
 - d) Pole cannot be lifted in future whenever required.
 - e) Accessibility notice already has been served.



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5. Heard arguments of both the parties at length.
6. The application of the complainant was rejected on the basis of two deficiencies first the building height is more than 15 meter and BCC is required and secondly pole is encroached.
7. From the perusal of record and pleadings of both the parties we find that the complainant applied for new electricity connection at fourth floor of premises no. 708, West Guru Angad Nagar, Laxmi Nagar, Delhi-110092 vide request no. 8006715087 which was rejected by OP on pretext of building height more than 15 meters and Fire clearance certificate or BCC required and pole encroachment.



Regarding the first objection of OP, building height more than 15 meters, the complainant itself has submitted that he has applied for Building Completion Certificate from MCD and seeks time for submission of the same.

Regarding pole encroachment, the complainant stated OP has released many connections from the said pole in question to the other buildings as well as other floors of the applied building. The latest connection released by OP in the adjacent building was in September 2023 vide CA no. 154251567.

Op has placed on record list of 11 connections released in the applied building but have not provided their date of energization on record, thus it is not possible for the Forum to ascertain when these connections were released by OP.

Regarding the accessibility notices issued to all the eleven connections in the applied building, those notices were issued by OP on 18.01.2024 i.e. after lodging complaint by the complainant in the Forum on 10.01.2024. And till date no action has been taken by OP on the said connections.

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Further the complainant has applied for new electricity connection on the 4th floor of the building and the floor of the building is far from the pole, the ground and upper ground floors of the building are near to the floor where OP has already released the new electricity connections without considering the pole encroachment.

8. In view of the above deliberations, we are of considered opinion that regarding the BCC, the complainant itself has admitted that once he will get the same from the concerned department he would file the same to OP.

For the issue related to pole encroachment, OP has already released many new electricity connections to the other residents of the applied building on the floors which are near the pole.

9. The factual position of the case, as apparent from the inspection report and document, the distance of premises from concerned electricity pole is not 1.2 meter as required by the law. The pole is adjacent to building where the respondent has already given many connections on the different floors of the said building and adjacent building from the same pole and complainant's required connection is for the fourth floor. Even as per law as mentioned in Regulation 60 (3) of Regulation 2010 if the distance is less than 1.2 meter, connection can be given if it is adequately insulated. There is no dispute regarding the fact that the supply of electricity is totally insulated wire and OP has not taken on the accessibility notices issued to the other occupant of the building in question. Hence, on this very ground complainant cannot be deprived of the electricity connection.


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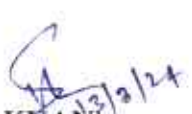
10. Water and electricity are integral part of right to life. Hon'ble Supreme Court in the matter of Dilip (Dead) LR vs Satish, in case no. SCC online SC810 dated 13.05.2022 has held that electricity is basic amenity which a person cannot be deprived off. Even on the principle of law there should be equity before law and equal protection of law in the spirit of constitution. In the present circumstances of many consumers of applied building and adjacent building have been given connection and on the basis of no proper clearance from the pole, thus the complainant cannot be deprived off connection. We are of the view that the respondent may be directed to provide the connection.

ORDER

Complaint is allowed. Respondent is directed to release the connection applied by complainant after submission of BCC from MCD and completion of all other commercial formalities and after giving the undertaking regarding the fact that he will be responsible for any mis-happening due to improper clearance from the pole.

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 SINGH)
CHAIRMAN


(P.K.AGRAWAL)
MEMBER-LEGAL


(NISHAT AHMAD ALVI)
MEMBER-CRM


(H.S. SOHAL)
MEMBER