

C A No. Applied for
Complaint No. 619/2024

In the matter of:

Hitesh Kumar PoptaniComplainant

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)
4. Mr. H.S. Sohal, (Member)

Appearance:

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

ORDER

Date of Hearing: 08th April, 2025

Date of Order: 09th April, 2025

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

1. The brief fact of the case giving rise to this grievance is that the complainant applied for new electricity connection at premises no. 610/2 (old), New no. IX/6421, Mukharjee Gali, Gandhi Nagar, Delhi-110031, vide request no. 8007225495. The application of complainant was rejected by Opposite Party (OP) BYPL on the pretext of requirement of fire safety clearance as NX connection is applied in G+5 commercial building, height more than 15 meters BCC required and pole encroachment.

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2. The respondent in reply briefly stated that the present complaint has been filed by the complainant seeking new electricity connection for non-domestic purpose at third floor of property bearing no. IX/6421, Kh. No. 644/605, 3rd floor, 610/2 (old), Mukharjee Gali, Gandhi Nagar, Delhi. Reply further stated that during inspection made by the respondent, it was found that building structure where electricity connection is sought by the complainant is Ground + 5 floors over it commercial building. The said building is used for business purposes and height of the building is more than 15 meters; hence fire safety clearance certificate is mandatory to provide the new electricity connection as per Regulation 27 of DFS and also in order to secure new connection as per the provisions of the Delhi Electricity Regulatory Commission (supply Code and Performance Standards) Regulations 2017.

It is also mentioned in reply that complainant requested for new connection at third floor of the applied site and same cannot be processed since the complainant failed to furnish fire no-objection certificate (NOC) for the applied site having height more than permissible limit of 15 meters, and as the building happens to be commercial building, therefore fire safety certificate or NOC is mandatory.

Reply further stated that applied premise is not technically feasible for energization due to security measures. Upon inspection it was evident that the applied premise is found encroaching upon BSES electric pole thereby making it unfeasible for the grant of new connection.

3. In response to the reply the complainant filed rejoinder refuting therein the contentions of OP as averred in their reply and stated therein that OP has mentioned in their reply that building structure consist of basement+ ground+ five floors over it but has not mentioned the way of construction of the building.

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The rejoinder also stated that the complainant applied for new connection on 3rd floor and the pole's height is till 1st floor. OP has also released three connections from the said pole in the subject premises.

Rejoinder also submitted that he is owner of 3rd floor only by way of sale documents dated 03.02.2023 for area 120 sq. yards and 11.05.2023 for another area of 120 sq yards totally to 240 sq yards. He has nothing to do with the construction on the top of 4th floor. Owner of top floor is another person.

Complainant in rejoinder also mentioned OP has released connections at property bearing no. 16, Gali no. 4B, Aaram Park, Shastri Nagar, Delhi-31, in which this forum has ordered to produce BCC for release of new connections and despite the orders of the Forum, the OP has released the new connections without asking for BCC. The complainant also quoted Judgment of Hon'ble High Court of Delhi in the matter of BSES Rajdhani Power limited Vs Vinod Singh Negi.

The complainant along with rejoinder submitted Architect Certificate showing height of the building: fourth floor less than 15 meters or 49'-2".

4. During the course of arguments, OP was directed to file installation details/date of the connections installed in the subject building along with site inspection report and height of the building.
5. OP filed the details as required by the Forum submitted therein that there are nine shops at ground floor, 11 shops at first floor, seven shops at second floor, third floor and fourth floors are of 240 sq yards and 5th floor is covering 200 sq. yards approx. At third floor supply is being used from meter no. 70105146 and height of the building is 18.50 meters.

6. Heard both the parties and perused the record.

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7. From the narration of facts and material placed before us we find that the complainant applied for new electricity connection at third floor of premises no. 610/2 (old), Mukharjee Gali, Gandhi Nagar, Delhi-110031 which was rejected by OP for requirement of fire safety certificate as height of the building is more than 15 meters and BYPL pole encroachment.
8. OP has submitted that new electricity connection for NX purpose cannot be issued to a building having ground + 5 floors in view of Rule 27 of Delhi Fire Services Rules 2010, which stipulates as follow:-
- 27. 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.

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(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.

8. In view of the above deliberations and Regulations, we are of the considered opinion that the building structure where the new connection has been applied for by the complainant consists of basement + ground + five floors over it. The building is total mercantile building and the height of the building as per OP's site visit report is 18.50 meters which is more than 9 meters which as per above stated DFS Rules requires fire clearance certificate being mercantile building. The complainant in his support has also produced Architect Certificate showing height of the building upto 4th floor as 15 meters, but the said Architect Certificate cannot be considered as the building of the complainant is mercantile building and height of the building is more than 09 meters, which requires fire NOC as per DFS rules.

Undoubtedly the building height is more than 09 meters and as per above stated DFS Rule 27, the building is likely to cause a risk of fire. Therefore, we cannot grant application of the complainant for new connection.

9. Regarding second objection of OP, pole encroachment, the complainant has submitted that the pole is not totally encroached by him and the height of the pole is equivalent to the height of 1st floor of the premises and already OP has released three electricity connections from the said pole in the subject premises.

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OP in support of their pole encroachment objection has not placed on record any clear and relevant documents and neither has given details of the connections energized from the said pole to the subject premises. Therefore, this objection of OP cannot be relied upon.

10. The complainant has taken plea of High Court's order in the matter of BSES Rajdhani Power Limited Vs Vinod Singh Negi & Ors, but the said matter pertains to MCD booking and the matter has not been decided yet, thus the same is not applicable in the present case.

ORDER

The complaint is partially allowed. The complainant is directed to provide Fire clearance certificate for grant of new electricity connection as the building height is more than 9 meters and as per above stated DFS in mercantile buildings the height of the building should not be more than 9 meters but in the present case it is more than 9 meters therefore it is mandatory to file fire certificate. The other objection of OP have been nullified in the present case.

The parties are hereby informed that instant Order is appealable by the Consumer before the Ombudsman within 30 days of the receipt of the Order.

If the Order is not appealed against within the stipulated time, the same shall be deemed to have attained finally.

Any contravention of these Orders is punishable under Section 142 of the Electricity Act 2003.

on leave
(H.S. SOHAL) MEMBER
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Secretary
CGRF (BYPL)

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(P.K. AGRAWAL) MEMBER (LEGAL)

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

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(P.K. SINGH) CHAIRMAN

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