

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
Phone: 32978140 Fax: 22384886
E-mail: cgrfbyp1@hotmail.com
SECY/CHN 015/08NKS

C A No. Applied For
Complaint No. 386/2024

In the matter of:

KamleshComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

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

Appearance:

1. Mr. Imran Ul Haq Siddiqi, Counsel of the complainant
2. Mr. Akash Swami, Mr. R.S. Bisht & Ms. Chhavi Rani, On behalf of BYPL

ORDER

Date of Hearing: 05th November, 2024

Date of Order: 08th November, 2024

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

1. Present complaint has been filed by the complainant thereby submitting that she applied to the OP for grant of new electricity connection in her premises being ground floor of property bearing no. N-5,A old plot no. 1 & 5, Laxmi Nagar, Delhi-110092 vide request no. 8007036401. The complainant alleges that the said request for new connection was declined by the OP on the pretext of MCD booking. But her premises are not booked by the MCD.

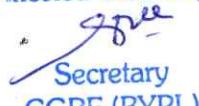
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Complaint further states that OP has already granted four connections in the same premises. Complainant by way of this complaint has prayed for grant of new connection.

2. In reply to the complaint, OP alleges that the NX connection has been sought by the complainant on the Ground Floor of premises having G+ 5 structure. Therefore, a valid BCC or NOC from the fire department is required as a pre-condition for release of new connection. As per reply the inspection done by the OP shows that the premises consists of G+ 5, floors as there is a store above the 4th floor. Therefore the height of the building becomes more than 15 meters. Hence, NOC from fire department is must for releasing the connection. Regarding the four connections already given, reply states there is no parity between the two as the facts of the two cases are different. The reply also refers a Judgment namely Shashi Shekhareshwar Prasad Narayan Singh Vs NDMC in support of her case. Reply also refers a communication dated 31.05.2019 of DERC in support of its case.
3. In rejoinder to the reply denying the allegations of OP of their being a fifth floor, complainant reiterates that the building consists of G+ 4 floors and above the 4th floor there is only a washroom below the mumty, along with staircase, which structure is allowed as per rules and the same cannot be claimed by the OP as 5th floor.
4. Both the parties in support of their respective contentions have placed on record documents i.e. copies of e-mails interchanged between the parties along with copy of deficiency letters issued by OP in pursuance of request under consideration as well as with respect to the connections referred by the complainant as already granted and photographs of alleged structure. On the other hand OP has placed on record copy of its IR, communication of DERC and the judgment referred in the reply, in support of its case.

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Secretary
CGRF (BYPL)



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5. Heard and perused the record.
6. As per pleadings, the reason for declining the request for new connection was that the building is upto 5th floor thus height becomes more than 15 meters, and in that case as per Regulations NOC from fire department is necessary so as to release the connection applied for. While complainant's case is that there is no such fifth floor and building consists of G+ 4 floors only. Thus height thereof being within 15 meters no NOC from fire department is required. Bone of the contention is a structure above the 4th floor in the form of a washroom/store which the OP considers to be 5th floor, while as per complainant the same cannot be so considered. In this respect complainant has placed on record photograph of the said washroom/store. The photograph is not specifically denied by the OP. The IR placed n record by OP also show the same structure on the roof of the 4th floor. Now the only thing to consider remains as to whether this structure be it store or the washroom can be covered within the definition of the building. In this respect, OP has referred decision of District Court in the matter of Sashi Shekhareshwar Prasad Narayan. Perusal of this judgment reveals that observation of this Court in Para 12 thereof is relevant which states "If the definition of building and the contents of Section 237 as provided under the Act are kept in mind it would be clear that the word building as defined under the act is not to be interpreted narrowly. Once it is concluded that the term building is not be interpreted narrowly, it would mean that a structure having some sort of permanency which can be used for residential or non-residential purpose is coverable under the definition."

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CGRF (BYPL)

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As per this observation the structure alleged should be such which can be used for residential or non-residential purposes. Looking into the small dimension of the alleged structure, we are not convinced that the same can be used for residential or non-residential purposes. As per photograph it is only within the boundary of the mumty that the two structures are built up i.e. staircase and the disputed structure. The structure has a very small area less than half of the size of mumty, roof whereof is a small part of mumty itself. In our considered view this small structure can't be said sufficient structure to call it a building. Hence height of the building can't be measured upto the roof of washroom/store which infact is a roof of mumty which as per concerned Regulations is exempted.

Even otherwise if we go through the deficiency letter as well as the complaint, we observe that the deficiency shown was MCD booking for unauthorized construction while the OP in its reply has taken a different plea i.e. height of the building. As per Regulation 11 (iv) of DERC Supply Code and Performance Standards, Regulations 2017 The Licensee shall indicate all the deficiencies in the application form to the applicant in one go only and shall not raise any new deficiency subsequently. In view of this Provision, plea of a new/subsequent deficiency is barred. While reply utter not even an iota regarding MCD booking nor placed any document on the basis of which OP reached to this conclusion.

In the facts and circumstances we don't find any valid reason/substance in justifying rejection of complainant's request for new connection. As such complainant is very much entitled for the connection applied for.

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ORDER

OP is directed to release the NX connection applied for vide request no. 8007036401, by the complainant in her ground floor portion of premises no. N-5 A, Old no. Plot no. 1&5, Laxmi Nagar, Delhi-110092 after completion of commercial formalities as per DERC Regulations 2017.

This Order shall be complied within 21 days of the receipt of the certified copy or from the date it is uploaded on the Website of the Forum; whichever is earlier.

The parties are hereby informed that the 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 finality.

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

(H.S. SOHAL) (NISHAT A ALVI)
MEMBER MEMBER(CRM)

(P.K. AGRAWAL)
MEMBER (LEGAL)

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

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