

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

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SECY/CHN 015/08NKS

C A No. Applied For
Complaint No. 286/2023

In the matter of:

Kanika AggarwalComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

1. Mr. P.K. Singh, Chairman
2. Mr. Nishat Ahmad Alvi, Member (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 Siddiqui, Counsel of the complainant
2. Ms. Ritu Gupta, Mr. R.S. Bisht, Ms. Shweta Chaudhary & Ms. Chhavi Rani, On behalf of BYPL

ORDER

Date of Hearing: 21st December, 2024

Date of Order: 17th January, 2024

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

1. This complaint has been filed by Smt. Kanika Aggarwal, against BYPL-SRD. The brief facts of the case giving rise to this grievance are that complainant Smt. Kanika Aggarwal applied for new electricity connection vide request no. 8006304992 at premises no.

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Smt.
Secretary
CGRF (BYPL)

[Handwritten signatures and initials: Smt, S, J, M, and a signature with a checkmark]

1 of 5

XVI/2633 and 2634 UGF, Pvt. No. 1-A, bank street, Naiwala estate, Karol Bagh, Delhi-110005, but OP rejected his application for new connection on the pretext of building height more than 15 meters. She further stated that she applied for new connection on Upper ground floor and building height should not be taken into consideration for releasing connection on upper ground floor.

2. The respondent in reply briefly stated that the complainant is seeking release of new electricity connection vide request no. 8006304992 at upper ground floor of property no. XVI/2633 & 2634, pvt. No. 1-A, Bank Street, Naiwala Estate, Karol Bagh, Delhi-110005. The application of the complainant was rejected for want of NOC from fire department as building is commercial in nature having height more than 15 meters. The building consists of basement, ground floor plus five floors over it. The complainant as for building height clearance relies upon the sixth amendment of 2021 in DERC (Supply Code and Performance Standards) Regulations 2017; however, the said amendment is with respect to Residential building whereas the subject property type is commercial.
3. Counsel of the complainant stated that he does not want to file rejoinder and submitted Architect Certificate and Judgments of Hon'ble Ombudsman in the matter of Sanjay Mendiratta and Ajay Mendiratta, where the matter was withdrawn by the complainants as OP agreed to release the new electricity connections to the complainants. Respondent accepted the measurement done by approved architect and found that the height was less than 15 meters.
4. On the final hearing of the case, OP stated that they want to file evidence in rebuttal regarding the height of the building. The Architect Certificate submitted by the counsel of the complainant stated that the height of the building upto fourth floor terrace level is 14.95 meters (approx.) does not exceeds 15 (fifteen) meters.

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Complaint No. 286/2023

OP was directed to measure the height of the building by a Civil engineer.

5. OP filed Architect Report dated 10.01.2024, according to which, building comprises of basement, Ground, Mezz., First, Second, Third and Fourth floor and lift mummyt above. The height of the building till fourth floor terrace level is +17.45 meters from the road level and +3.30 above fourth floor area constructed.
6. Since, the report filed by OP was after final hearing of the case, the matter was again put up for hearing on 16.01.2024, when copy of the Architect Certificate filed by OP was provided to the counsel of the complainant. The counsel of the complainant has not argued the Architect Certificate of OP but insisted that he has applied for new connection on the Upper Ground Floor of the building and as per Sixth Amendment and Orders of the Hon'ble Ombudsman, be taken into consideration for release of new connection in his portion.
7. Heard both the parties and perused the record at length.
8. The main issue is whether the new connection can be released to the complainant where the complainant has applied for new connection under commercial category in a commercial building and height of the building is more than 15 meters. Can the complainant be given benefit of sixth amendment?
9. As far as legal position is confirmed according to 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.

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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;

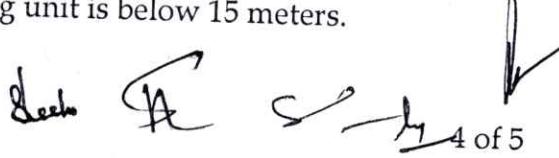
Provided that in case such dwelling units above 15 meters without stilt parking and above 17.5 meters with stilt parking of the building indulge in unauthorized connection from the system of licensee or from the live connection of any other consumer, the licensee may initiate an action as per provisions of Section 126, Section 135, Section 138 or any other section as may be applicable of the Electricity Act, 2003 and the electricity connection of such consumer who has provided the supply unauthorisedly, shall be disconnected immediately;

The complainant has not objected the Architect Certificate filed by OP. For buildings provision is given in Clause 2(4)(1) aforesaid. It provides two sub-clauses. Out of which Sub-clause(i) is material in this case, which permits release of connection, without insisting Fire Safety Clearance Certificate, in such building, considering height of the dwelling units only and not the entire building.

In this sub-clause, two things are material - (a) that the unit is dwelling, b) that the height of dwelling unit is below 15 meters.

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Deekha R S Jay 4 of 5

Complaint No. 286/2023

Here in the present case height of the building where the complainant is seeking new connection is above 15 meters and the unit shall no more remain as dwelling one, the very moment the nature of the unit is converted into commercial. Here admittedly the complainant is seeking commercial connection. After which complainant's ground for taking benefit of aforesaid sixth amendment aforesaid no more remains available to him.

In the facts and circumstances we are of considered view that even if the building is considered residential, complainant can't be allowed to get the category of a domestic connection changed into commercial unless and until a fire safety clearance certificate is obtained.

ORDER

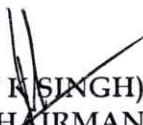
The complaint is rejected. The request of the complainant for new connection vide request no. 8006304992 at premises no. XVI/2633 and 2634 UGF, Pvt. No. 1-A, Bank Street Naiwala, Estate, Karol Bagh, Delhi, cannot be granted unless and until fire safety clearance certificate is submitted to the OP.

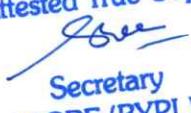
Case is disposed off as above.

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


(S.R. KHAN)
MEMBER-TECH


(NISHAT AHMAD ALVI)
MEMBER-CRM


(P.R. SINGH)
CHAIRMAN

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Secretary
CGRF (BYPL)


(P.K. AGRAWAL)
MEMBER-LEGAL


(H.S. SOHAL)
MEMBER