



C A No. Applied for
Complaint No. 43/2024

In the matter of:

.....Complainant

VERSUS

BSES Yamuna Power Limited

.....Respondent

Quorum:

1. Mr. P.K. Singh, Chairman
2. Mr. Nishat Ahmad Alvi (CRM)
3. Mr. P.K. Agrawal, Member (Legal)
4. Mr. S.R. Khan, Member (Technical)

Appearance:

1. Mr. Shanky R.S. Gupta, A.R. of the complainant
2. Mr. Deepak Pathak, Mr. R.S. Bisht & Ms. Chhavi Rani On behalf of BYPL

ORDER

Date of Hearing: 25th July, 2024

Date of Order: 02nd August, 2024

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

1. The brief fact of the case giving rise to this grievance is that the complainant applied for new electricity connection at premises no. shop no. 1, part of 1/4345, Old plot no. 14, Ashok Marg, Ram Nagar extension, Shahdara, Delhi-110032 vide request no. 8006541256. The application of complainant was rejected by Opposite Party (OP) BYPL on the pretext of ownership proof and applied address is mismatch and correct NOC form signed by applicant and owner is required. Address in MCD list.

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Secretary
GRF (BYPL)

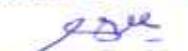
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2. The respondent in reply briefly stated that the present complainant has been filed by complainant seeking new electricity connection at property bearing no. shop no. 1, GF, plot no. 14, Ashok Marg, Ram Naga extension, Shahdara, Delhi, Near Gauri Shankar Ghee wala, Delhi-110032, vide request no. 8006541256. As per the documents submitted by the applicant the complete address is shop no. 1, GF, property no. 1/4345, old plot no. 14, Khasra no. 568-569, Ashok Marg, Ram Nagar, Shahdara, Delhi-110032. The application of the new connection was rejected as the property is appearing in MCD Objection list vide letter no. EE(B)-II/SH-N/2018/D-1064.
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 connections on the back side of premises in the year 2019 by taking an affidavit despite MCD disconnection list sent to BYPL. The booked area is back side part entrance which is 75 sq yards and his shop is in front side and of only 12 sq yards.
Rejoinder further states that MCD has issued him trade license in 2021 even after booking of the property. He further emphasis that his shop is apparently separate from the booking area.
4. OP in its additional submissions to the rejoinder stated that the three connections which were released in the said property have been served notice for disconnection. OP further added that Hon'ble High Court in catena of cases, to curb the menace of unauthorized construction has passed direction to civic authorities and utilities provider for non-supply of basic amenities.

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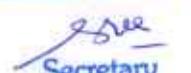
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Complainant's contention that whether MCD can issue such direction under Section 343 and 344 of DMC Act, it is respectfully submitted that, this issue and vires of 343/344 DMC Act cannot be challenged before the Hon'ble Forum to vires of the Act or the provisions thereof and the validity and vires of the Act and provisions made therein is liable to be challenged before the constitutional Forum.

5. Heard both the parties and perused the record.
6. From the narration of facts and material placed before us we find that the complainant applied for new electricity connection at premises no. shop no. 1, part of 1/4345, Old plot no. 14, Ashok Marg, Ram Nagar extension, Shahdara, Delhi-110032, which was rejected by OP on the grounds that the said premises are booked by MCD under Section 343 and 344 of DMC Act 1957, appearing at sl. no. 165 of the MCD booking list in shape of Unauthorized construction at GF, FF, SF, TF, fourth floor, with projection on Mpl. Land (75 sq. yards). The complainant placed on record reply of MCD trade license dated 28.06.2021. This issuance of trade license by MCD does not rule out that property is not booked by MCD. The complainant should have placed on record Building Completion Certificate or NOC from MCD in support of his contention.

Regarding the submission of complainant that whether MCD can issue direction under Section 343 or 344 DMC Act, it is respectfully submitted that, this issue vires of 343 and 344 DMC Act cannot be challenged before this Forum and same may be challenged before the Constitutional Court.

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CGRF (BYPL)



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7. As far as legal position is confirmed according to DERC (Supply Code and Performance Standards) Regulations 2017, Rule 10 (3) for the new connection proof of ownership or occupancy is required.

Performa for new connection has been provided in DERC (Supply Code and Performance Standards) Regulations 2017 as annexure 1, seven declarations are required as per performa and in this case 5th one is important "that the building has been constructed as per prevalence building bye-laws and the fire clearance certificate, if required, is available with the applicant."

DERC (Supply Code and Performance Standards) Regulations 2017, Rule 11 (2)(iv)(c) shows that "the Licensee shall not sanction the load, if upon inspection, the Licensee finds that;

(c) the energization would be in violation of any provision of the Act, Electricity Rules, Regulations or any other requirement, if so specified or prescribed by the Commission or Authority under any of their Regulations or Orders.

8. Hon'ble Delhi High court in case of Parivartan Foundation Vs. South Delhi Municipal Corporation & Others W.P. (c) 11236/2017 dated 20.12.2017 has laid down that

3. The BSES Rajdhani Private Limited and the Delhi Jal Board shall ensure that no connections are provided and water and electricity is not supplied to the buildings constructed in violation of law.

4. In case, the connections have been given to the buildings constructed in violation of law, appropriate steps in accordance with law shall be taken regarding those connections.

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Secretary
CGRF (BYPL)

9. Therefore, we are of considered opinion that the property no. shop no. 1, part of 1/4345, Old plot no. 14, Ashok Marg, Ram Nagar extension, Shahdara, Delhi-110032 is booked by MCD and for release of new electricity connection, the complainant has to place on record BCC or NOC from MCD.

Regarding the judgment of Hon'ble Ombudsman in the matter of Imran Vs BYPL, in this regard, both the cases are entirely different. In the matter of Imran the complainant has placed on record BCC which OP needs to verify from the MCD.

But in the present case the complainant has not placed on record any BCC or NOC from MCD which needs to be verified from MCD.

10. Thus, in view of above, we are of considered opinion that the new connections applied by the complainant cannot be granted. For release of the new electricity connections the complainant has to file Building Completion Certificate from Municipal Corporation of Delhi.

ORDER

Complaint is rejected. Respondent has rightly rejected the application of new connection of the complainant. However, if in future the complainant submits Building Completion Certificate, OP should release him new electricity connection, subject to fulfilling any other required formalities.

The case is disposed off as above.

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


(NISHAT A ALVI)
MEMBER (CRM)


(P.K. AGRAWAL)
MEMBER (LEGAL)


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


(P.K. SINGH)
CHAIRMAN

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