

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. 122/2021

In the matter of:

Mohammad NazimComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

1. Mr. Arun P Singh (Chairman)
2. Mrs. Vinay Singh, Member (Legal)

Appearance:

1. Mr. N.K. Ray, Counsel of the complainant
2. Mr. Imran Siddiqi, Ms. Seema Rawat & Ms. Shweta Chaudhary, On behalf of BYPL

ORDER

Date of Hearing: 24th November, 2021

Date of Order: 26th November, 2021

Order Pronounced by:- Mrs. Vinay Singh, Member (Legal)

Briefly stated facts of the case are that the complainant applied for new electricity connection but the respondent rejected his application for new connection.

It is also his submission that he is owner/user of property no. 2906/2908/1, FF, Shahganj, near Ajmeri Gate, Delhi-110006. He purchased the said property on 08.03.2017 through GPA and all the shops/flats in the building have electricity connection but complainant's shop have no electricity connection.

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He further submitted that said building is old and constructed upto ground to fourth floor. He applied for new electricity connection at first floor on 05.08.2021 bearing application no. 8005042096 and the said flat has height below 15 meters. Respondent rejected his application for new connection on pretext of building height more than 15 meters as per DERC Guidelines Fire Clearance Certificate required. Complainant also submitted that the height of his flat is under the limit according to DERC Guidelines (sixth amendment order dated 15.04.2021). Therefore, he requested the Forum to direct respondent for release of the new electricity connection.

Notices were issued to both the parties to appear before Forum on 24.11.2021.

The respondent company submitted their reply stating therein that complainant applied for new electricity connection for commercial purpose vide application no. 80050042096 at premises no. 2906/2908/1, FF, Shahganj, Near Ajmeri Gate, New Delhi-110006. During site visit on 05.08.2021 it was found that height of the building where new electricity connection is applied is more than 15 meters having G+4 floor. Commercial activity found at GF and FF. Height of the building is more than 15 meters and in terms of Supply Code 2017, fire clearance certificate is required. Respondent also submitted that dues pertaining to theft of electricity in respect of CA No. 400452150 amounting to Rs. 364622/- and dues amounting to Rs. 6679/- in respect of CA No. 100209430 required to be cleared by the complainant.

Respondent also submitted that as per Regulation 10 & 11 of DERC (Supply Code and Performance Standards) Regulations 2017 pertains to grant of new electricity connection.

The matter was listed for hearing on 24.11.2021, when both the parties were present and in present case, dispute is regarding building height. Complainant sought commercial connection in the shop at second floor. But as per DERC

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Regulations, connection cannot be released if the building height is more than 15 meter. Arguments heard and matter was reserved for orders.

We have gone through the submissions made by both the parties. From the narration of facts and material placed before us we find as under:

The notification of DERC vide no. F.17(85)/Engg/DERC/2016-17/5403/487 dated 31.05.2019 is only for residential building and not for commercial buildings in which it clearly clarifies that 17.5 meter height of the building alongwith stilt building only for residential purpose, not for commercial purpose. The relevant portion is mentioned below:

4. DISCOMs have also informed that the buildings are being constructed in Delhi with stilt parking Clause 4.4.3 of the MPD 2021, the maximum height of a building in a residential plot plotted housing is mandated is as under:

"Height: Maximum height of the building shall be 15 M in plots without stilt parking and 17.5M in plots with stilt parking. Such residential building shall not be considered as high rise building. For purpose of fire and life safety requirements, clearance of Fire Department will be obtained by the Individual plot owner."

5 Hon'ble High Court of Delhi in its judgment dated 29.05.2003 in CWP 27/10/1998 and CM 4780/2003 in the matter of Dr. B.L. Wadhera Vs. Govt. of NCT of Delhi and Ors. has directed that in all high rise buildings in Delhi and New Delhi fire safety measures are to be adhered to.

Delhi Fire Service Rules, 2010 under Delhi Fire Service Act, 2007 (Delhi Act 2 of 2009) relevant portion is narrated below:-

27. Classes of occupancies likely to cause a risk of fire. Occupancies for the purposes of sub-section

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(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.

(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.

M S Azra Vs. State Govt. of NCT and ors. WP (C) 2453/2019 order dated 06.02.2020. The complainant filed a writ petition to get the electricity connection on the second floor, premises no. 3418, Gali Maliyaan, Bazar Daryaganj, Delhi. Connection was rejected by the respondent 2 & 3 because of the building height is more than 15 metres. Fire clearance certificate is required. Hon'ble High Court opined that "it is not possible for this court to direct respondent 2 & 3 to grant the electricity connection in the absence of Fire Clearance Certificate and no dues."

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In the High Court of Delhi in the matter of Vikas Singh Vs. Lieutenant Governor and Others in W.P. (c) 1476/2014 date of decision 20.01.2016, which is reproduced as under:-

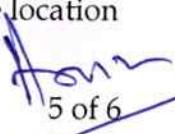
As per Rule 27 (2) of the Delhi Fire Services Rules, 2010 on the ground of the same being not in consonance with the amendment vide Notification dated 23.09.2013 of the Master Plan for Delhi (MPD)-2021.

The petition came up first before this Court on 07th March 2014, when the counsel for the respondents No. 1 to 3 i.e. Lieutenant Governor of Delhi, Govt of NCT of Delhi (GNCTD) and Director, Delhi Fire Services (DFS), GNCTD appearing on advance notice was directed to file an affidavit indicating the position with regard to fire safety clearance of buildings upto 15 metres in height and beyond 15 metres in height. It was further directed that the said affidavit shall also indicate, as to whether there is need for changing the cap of 15 metres as stipulated in Rule 27 (2) supra, on account of change in the Master Plan whereby the maximum height for residential buildings with stilt parking has been increased to 17.5 metres from the erstwhile limit of 15 metres.

According to Delhi Development Act 1957, bye-laws 2.58 whereof defines "Parking Space" as an area enclosed or unenclosed, covered or open, sufficient in size to park vehicles, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of the vehicles.

Appendix J whereof containing "Relevant Extracts from MPD-2021 regarding Development Control Regulations" provides the maximum height of constructions of residential plotted development, of 15 metres and further provides that if the building is constructed with stilt area of non-habitable height (less than 2.4 metres), used for parking, such stilt area shall not be included in FAR but would be counted towards the height of the building.

Bye-laws 6.2.4.1 of the Building bye-laws....has demonstrated that the building plan for such multi-storyed/special buildings has to show inter alia the location



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and size of fire lift, smoke exhauster system, access to fire appliances/vehicles with details of vehicular turning circle and clear motorable access way around the building etc.

Bye-laws (vi) (iii) that the Section 32 thereof requires only the "multi-storyed buildings" to be governed by the provisions for the fire prevention and fire safety measures stipulated therein.

After going through all the aspects of the case that the complainant has applied for a new commercial connection which the respondent has raised objection regarding the building height. The respondent's demand of fire clearance certificate is genuine because this building height is more than 15 meters. As per DERC notification dated 31.05.2019 the fire clearance certificate is required if the residential building height without stilt parking is 15 meters and with stilt parking 17.5 meters but in the present case the complainant has a commercial building and wants commercial connection so, the building height of more than 15 meters is required fire clearance certificate for the safety of life of a person and property, as Fire Service Act 2010 and DDA building Bye-Laws 2016 and Urban Building bye-laws.

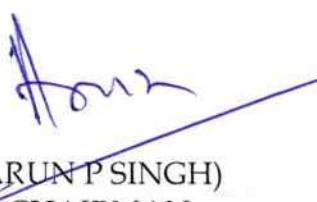
Now, we are of considered opinion that whenever, the complainant submits the fire clearance certificate and fulfilling all the commercial formalities, the respondent is directed to release the new connection as per DERC Guidelines 2017.

The case is disposed off as above.

No order as to the cost. A copy of this order be sent to both the parties and file be consigned to record room thereafter.

The order is issued under the seal of CGRF.


(VINAY SINGH)
MEMBER (LAW)


(ARUN P SINGH)
CHAIRMAN