

C A No. Applied for
Complaint No. 268/2024

In the matter of:

Mohan LalComplainant

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. Neeraj Kumar, Counsel of the complainant
2. Mr. Akash Swami, Mr. R.S. Bisht, Ms. Chhavi Rani & Mr. Akshat Aggarwal, on behalf of respondent

ORDER

Date of Hearing: 25th February, 2025

Date of Order: 07th March, 2025

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

1. The brief facts of the case giving rise to this grievance are that the complainant applied for new electricity connections at premises no. A-1/188-A, ground, first and second, Gali No.-5, Harsh Vihar, Mandoli, Delhi-110093, vide requests no. 8006811357, 8006811370 & 8006811374. The application of complainant was rejected by Opposite Party (OP) BYPL on the pretext of Applied Area pertain to Uttar Pradesh, but complainant alleged that already had

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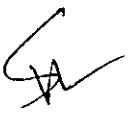

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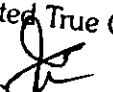
One connection having CA No. 101619563 in the name of Manish Kumar Rastogi, energization date 13.01.2009 at the applied premises and connection was surrendered by the complainant in M/o October 2022.

2. The respondent in reply briefly stated that the present complaint has been filed by the complainant seeking three new connections at the ground, first and second floor of a property which is claimed to be in the Delhi. The address of the subject property as per the complainant is A-1/188-A, Ground, First & second Floor, Gali No.-5, Harsh Vihar, Mandoli, Delhi-110093, and vide requests no. 8006811357, 8006811370 & 8006811374 complainant applied for new electricity connections. At the time of site visit the following observations were made:

- a) That the subject property is situated in the area pertaining to Uttar Pradesh having building structure ground plus two floors over it.
- b) From the site situation, it appears as if the applied premises are not fully functional as the subject property seems to be under construction.
- c) A meter bearing no. 371794 of U.P. DISCOM is installed in the adjacent premises on the right hand side of the applied premises.

Reply further added that the complainant had earlier applied for a new connection somewhere around August 2023. As per site visit dated 02.08.2023 the following details were observed that a 100 square meter plot was found to be divided into two parts, A-1/188-A and A-1/188. No meter was found existing in 188 and the complainant had applied for a new connection at 188-A. At properties 186 and 187 and property opposite to the applied premises, Meter of Delhi DISCOM was found installed.

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It is also added that on 20.07.2009, learned DERC issued a communiqué no. F.7(23)/DERC/Biannual report-omb/2005-06/1575 to the respondent enclosing a copy of the Ombudsman's Biannual Report for the period 01.01.2009 to 30.06.2009 directing for submission of parawise reply to the same and directing to rule out any possibility of recurrence of the events referred to the in the report.

3. Counsel for the complainant in its rejoinder refuted the contentions of the respondent as averred in their reply and submitted that the property A-1/188 measuring 70 sq yards whose erstwhile owner was Manish Kumar and already a connection was installed vide CA no. 101619563 which the erstwhile complainant got disconnected. Thereafter, a part of above said property about 50 Square Yards was sold out to Satveer Singh on 15.11.2022 along with CA No. 101619563. The present owner/3rd owner purchased the property from Mr. Satveer Singh along with electricity connection vide CA No. 101619563 which is presently disconnected on the request of first owner namely Manish Kumar.

4. As per site visit report complainant premises does not falls in Uttar Pradesh area. Complainant filed Site Map, Chain of property and regular bills alongwith rejoinder.

The complainant also placed on record order of the Forum in the matter of Dhoom Singh Vs BYPL vide C.G. No. 230/2022, in the said order Forum has held that "we have also gone through various orders/judgments passed by various forums and Courts. In Ram Kumar Vs BSES YPL appeal no. 2/2021 Hon'ble Ombudsman has dealt with the same dispute of Jurisdiction particularly of Johripur Extension of Karawal Nagar Area of Delhi. Learned Ombudsman has observed that none of the two parties were able to produce Revenue Record, further observing in Para-7 f its order that "the denial of the electricity connection by the Discom is purely based on

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conjectures, since they don't have any authenticated record to provide that the area lies in the state of U.P. not only this, the order further states in the last of Para-7 that "the Discom also needs to look into the matter rather seriously and they can't deny the connection purely on the basis of hearsay, that the area lies in U.P. it is also observed that issue of demarcation of this area is still pending before the Hon'ble High Court.

In another case namely Human Fundamental Rights Association (regd.) and Others Vs Union of India & Ors. W.P. (c) 6211/2012 Hon'ble High Court of De4lhi has dealt with the question of jurisdiction. Facts of the case were the area in dispute had been developed as a colony of Delhi. As such its residents were issued Delhi I-cards, water connections, BSES electricity connection. Later on, demarcation took place, whereby about 209 of properties fall, partly in UP and partly in Delhi therefore, Discom disconnected the connections of premises which were falling in U.P. area. Aggrieved complainant challenged demarcation process by way of writ petition, wherein Hon'ble High Court by way of interim order not only stayed disconnections but also allowed BSES-YPL to allow applications for new connections in the UP area itself on pre-paid meters till proper demarcation took place.

In the light of above two judgments we observe that connection of electricity can't be rejected unless and until something concrete is brought forward to establish jurisdiction of a particular state. Discom can't take plea of jurisdiction unless a clear cut proof is provided by it to justify that area concerned is out of its jurisdiction.

In another case titled as Dilip (dead) LR Vs Satish Scc online SC810 dt. 13.05.22, Hon'ble Supreme Court has held that electricity is a basic utility, which person cannot be deprived off. In the present circumstances, left side property and right side property of the applied premises already have BSES-YPL connection; therefore, the complainant who had applied for new connection in the same area cannot be deprived of his right to electricity.

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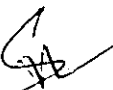

5. We also find that the properties no. 186 and 187 and the opposite side properties have BSES electricity connections. The site visit map filed by the complainant also shows the same situation that the adjoining properties of the complainant have electricity connections of Delhi DISCOM. Also, a connection was already energized in the property of the complainant vide CA no. 101619563 which got disconnected by the erstwhile owner of the property.
6. In view of the above deliberations and Forum's earlier order in the matter of Dhoom Singh Vs BYPL, and in the light of above two judgments we observe that connection of electricity can't be rejected unless and until something concrete is brought forward to establish jurisdiction of a particular state. Discom can't take plea of jurisdiction unless a clear cut proof is provided by it to justify that area concerned is out of its jurisdiction.

ORDER


Complaint is allowed. Respondent is directed to release the connection applied by complainant after completion of all the commercial formalities and without asking him DC/Revenue Record.

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 instant Order is appealable by the Consumer before the Ombudsman within 30 days of the receipt of the Order.

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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.

(H.S.SOHAL)
MEMBER


(P.K. AGRAWAL)
MEMBER (LEGAL)


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


(P.K. SINGH)
CHAIRMAN
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