

C A No. Applied For
Complaint No. 409/2024

In the matter of:

Mohd IqbalComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

1. Mr. P.K. Singh, Chairman
2. Mr. Nishat Ahmed Alvi, Member (CRM)
3. Mr. P.K. Agrawal, Member (Legal)

Appearance:

1. Mr. Aslam Parvez, Counsel of the complainant
2. Mr. Akash Swami, Mr. R.S Bisht, Ms. Chhavi Rani, Mr. Lalit & Mr. Akshat Aggarwal, on behalf of respondent.

ORDER

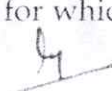


Date of Hearing: 03rd October, 2024
Date of Order: 05th November, 2024

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

1. The brief facts of the case giving rise to this grievance are that Mohd. Iqbal applied for new electricity connection vide request no. ONYVR3105240920 at premises no. 1460, 1st Floor Kh-42, Gali No. 52, Jafrabad Delhi-110053, but respondent rejected the application of the complainant for new connection for want of ownership proof. Complainant states that connection can be released on showing settled possession for which he has filed Aadhar Card

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Pan card, CNG Supply slip, election I D card and bill of disconnected connection in the name of complainant. These documents are sufficient proof for settled possession to release connection and complainant has prayed the Forum to direct the respondent to release the new connection as per request.

2. OP in its reply briefly stated that the complainant is seeking new electricity domestic connection for the premises bearing address 1460, 1st floor, Kh.No. 42, Gali No. 52, Jafrabad, Delhi-110053 and application no ONYVR3105240920. That upon inspection of the said premises, it was discovered that there are several deficiencies which are in direct violation of the provisions of Regulations of Delhi Electricity Regulatory Commission. The complainant has not submitted proof of ownership as per Regulation 10 (3) of DERC (Supply code and Performance Standards) Regulations 2017 and is relying only on the proof submitted as per regulation 10 (2) of DERC (Supply code and Performance Standards) Regulations 2017 which are identity proof only and ~~could~~ not ownership/occupancy proof and the complainant has to submit a valid and legal title document establishing his lawful right of occupancy of the applied premises which he failed to submit. Hence, complaint is not maintainable.

3. In response to the reply the complainant filed rejoinder refuting therein the contentions of respondent as averred in their reply and submitted that as per notification dated 31st December 2020 for new connection up to load of 10 kw or such higher load as may be

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specified by the commission, the application form shall be accompanied with only two mandatory documents, Identity Proof and proof of applicant's ownership or occupancy over the premises for which new connection is being sought or in the absence of an proof of ownership or occupancy, any other address proof given not given as a part of identity proof for new connection. Replication states that OP is misleading this Forum by considering only ownership but not the occupancy. Complainant has already submitted that he is ready to submit Indemnity Bond, also if required as he is bonafide owner/occupant of the applied premises.

4. Complainant in support of his contentions has filed voter I card, electricity (disconnected) bill, Aadhar Card, Pan Card, Ration Card, Gas Receipt, R.C. of two wheeler. On the other hand, OP in their support filed Deficiency letter and Inspection Report.
5. Heard and perused the record.
6. Going through deficiency letter and I.R. of OP, it requires only ownership proof which complainant is not able to produce. But the Regulation concerned requires that even the lawful occupant can be provided the connection. The complainant has pleaded that he is residing in applied premises since birth. But OP has not considered this ground while as per complainant he is in settled possession of applied premises. In this respect we have to consider legal provisions concerned.

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Clause (v) of sub-regulation 1 thereof provides that only two person are qualified to claim connection in respect of a premises ~~and~~ either the owner or lawful occupant thereof.

So far as ownership is concerned complainant has no document to prove the same. The only thing remains as whether he is lawful occupant or not.

In this regard, Clause (k) of Sub-Rule-1 of Rule (2) of Electricity (Rights of Consumers) Rules 2020 provides occupier-“means the owner, tenant or person in occupation of the premises where electricity is used or proposed to be used.” Further Hon’ble Supreme Court of India in Industrial Suppliers (P) Ltd. Vs UOI AIR 1980 SC 1858 has held that in the legal sense an occupier is a person in actual possession.

Further, lawful occupier has been dealt with by Hon’ble High Court of Calcutta in Abhimanyu Mazumdar Vs Superintending Engineer & Anr. AIR 2011 Calcutta 64, holding “Electricity Act (36 of 2003), S 43, 176, 67-works of License Rules (2006) Rule 2 (6), 3-Electricity Supply -‘lawful occupier of premises for the purpose of -means actual occupier in settled possession-person, in settled possession of property be it trespasser, unauthorized encroacher, squatter of any premises, can apply for supply of electricity without consent of owner, is entitled to get electricity and enjoy same until he is evicted by due process of law”.

As per all these provisions of law and rulings firstly we have to see that a premise in which electricity is proposed to be used is under occupation of the applicant or not.

Secondly, as to whether such occupant is in actual and settled possession or not so that he can be said to complete the requirement of lawful possession. However, it does not matter as to the occupier is a trespasser or unauthorized encroacher, until evicted by due process of law.

Now the only thing we have to determine is as to whether complainant is in actual and settled possession, or not. The means of such possession is not material.

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Regulation 10(3) provides for proofs of ownership. Occupancy as

(3) Proof of ownership or occupancy of the premises:- Any of the following documents shall be accepted as the proof of ownership or occupancy of premises:-

(i) certified copy of title deed;

(ii) certified copy of registered conveyance deed;

(iii) General Power of Attorney (GPA);

(iv) allotment letter/possession letter;

(v) valid lease agreement alongwith undertaking that the lease agreement has been signed by the owner or his authorized representative;

(vi) rent receipt not earlier than 3 (three) months alongwith undertaking that the rent receipt has been signed by the owner or his authorized representative;

(vii) mutation certificate issued by a Government body such as Local Revenue Authorities or Municipal Corporation or land owning agencies like DDA/L&DO;

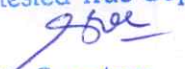
(viii) sub-division agreement;

(ix) For bonafide consumers residing in JJ clusters or in other areas with no specific municipal address, the licensee may accept either ration card or electoral identity card mandatorily having the same address as a proof of occupancy of the premises.

As per this sub-regulation for proving occupancy, lease/rent agreement and for residents of JJ cluster Ration Card or Voter I card are required.

In support of his case, the complainant has placed on record voter I Card, Aadhar Card, Pan Card, Ration Card, C.N. Gas receipt, R.C. and bill of disconnected connection. So far as voter I.D. Card, Aadhar Card, Pan Card, Ration Card are concerned, though these documents also show that the complainant is residing at applied premises but as per Rule 4(9) (2) of the Electricity (Rights of consumers) Rules, 2020, the Identity proofs as per Regulation 10 (2)

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of DERC (Supply Code and Performance Standards) Regulations 2017, shall not be considered as proof of occupancy. We find C N Gas receipt; R.C. and bill of disconnected connection are the other proof than identity proof as per Regulation 10 (2) aforesaid. All these documents show applied address as complainant's address. On the other hand para 3 of reply states that it was discovered that there are several deficiencies as detailed out in rejection letter. Deficiency letter on record show deficiency of ownership proof only. Regarding occupancy, deficiency letter is silent. Even Inspection aforesaid nowhere provides that complainant was not in possession of applied premises.

On the basis of above said findings we may conclude that aforesaid requirements of lawful occupant have been complied with by the complainant.

On the basis of above said findings we are of the considered view that the complainant is in actual and settled possession of the applied premises and as such he is very much entitled for grant of new electricity connection in his premises being a lawful occupant thereof.

ORDER

Complaint is allowed. OP is directed to release the connection applied for by the complainant in his premises bearing no. 1460, 1st floor, Kh. No. 42, Gali No. 52, Jafrabad, Delhi-110053 vide request no. ONYVR3105240920 after completing commercial formalities.

This Order shall be complied with 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.

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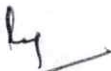
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The parties are hereby informed that the instant Order is appealable by the Consumer before the Ombudsman within 30 days of the receipt of the Order.

If the Orders are not appealed against within the stipulated time or no interim stay thereon has been granted by the Ombudsman, the same shall be deemed to have attained finality.

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


(NISHAT A ALVI)
MEMBER (CRM)


(P.K. AGRAWAL)
MEMBER (LEGAL)


(P.K. SINGH)
CHAIRMAN

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