

C A No. Applied for
Complaint No. 361/2024

In the matter of:

Mohd Irfan

.....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. Nishikant, Counsel of the complainant
2. Mr. Akash Swami, Mr. R.S. Bisht, Mr. Akshat Aggarwal & Ms. Chhavi Rani, On behalf of BYPL

ORDER

Date of Hearing: 1st October, 2024

Date of Order : 07th October, 2024

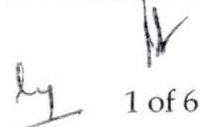
Order Pronounced By:- Mr. P. K. Agrawal, Member (Legal)

1. The brief fact of the case giving rise to this grievance is that the complainant applied for new electricity connection at premises no. H. No. 895, Mezzanine Floor, Gali Chah Shirin Farash Khana, Delhi-110006, vide requests no. 8006894675. The application of complainant was rejected by Opposite Party (OP) BYPL on the pretext of Address in MCD Objection List (Unauthorized Construction).

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2. The respondent in reply briefly stated that the present complaint has been filed by complainant seeking new electricity connection under NX category at the property bearing no. H. No. 895, Mezzanine Floor, Gali Chah Shirin Farash Khana, Delhi-110006, vide request no. 8006894675. The application of the new connection was rejected on account of Firstly; property is in MCD Objection list of unauthorized construction Vide letter no. D-226/EE(B)/CSPZ /2018 dated 23.01.2018 at serial No. 37, in the shape of unauthorized construction. Secondly; height of the applied premises having Ground+ four floors structure is more than 15 meter, which mandates the requisite architect certificate along with valid BCC or NOC and building structure comprises of G+4 floors mix use building, for which either Fire NOC & MCD Clearance Certificate is required.

At present, there exist four connections on the applied premises.

Meter No.	Category	Floor	D.I.O
35100580	DX	No Floor Mention	01.01.1990
35526023	NX	Ground Floor	25.01.2012
153157626	NX	Ground Floor	24.11.2020

All of these connections are quite old and only one connection pertains to the year 2020 and upon the receipt and knowledge qua the booking by MCD, Respondent is already in the process of issuing the disconnection notices to the existing connections and the Complainant's reliance of seeking parity does not hold the test of law as no new connections can be released in view of the booking of the premises by MCD.

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3. Counsel for the complainant in its rejoinder refuted the contentions of the respondent as averred in their reply and submitted that according to respondent the subject premises are booked by MCD and the respondent has already ~~been~~^{by} admitted in their reply that one connection has been installed at ground floor for purpose of non-domestic on 24.11.2020 and further denied that height of the applied premises more than 15 meters. It is submitted here that applicant Shop/Building/Premises has not been booked unauthorized construction by MCD or any kind authority.

4. Both the parties were directed to conduct joint site visit and the joint visit report dated 20.09.2024 is mentioned here below:-

- a) Building structure Ground+ Mezzanine+ three floors.
- b) Building activity G & M - Commercial and first to third floors domestic.
- c) Height of building from ground to roof of third floor is 14 Meters.

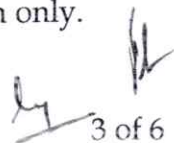
5. Heard arguments of both the parties were heard at length.

6. From the narration of facts and material placed before us we find that OP raised two grounds for rejecting application of the complainant for new connection. Firstly; the building is appearing in MCD booking lists dated 23.01.2018. Secondly; height of the applied premises having Ground+ four floors structure is more than 15 meter. During the course of the arguments the counsel of the complainant submitted that the connection released by OP in the year 2020 was released upon the orders of this forum only.

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7. Regarding first objection of OP of MCD booking, complainant stated that despite booking by MCD, OP has earlier released a connection in said building. In this regard, the earlier complaint dealt by the Forum in C.G. No. 40/2020 in the matter of Mohd Sazid, was allowed connection to the complainant as OP has raised only one objection that is height of the building. Upon site verification the height of the building came out to be 14 meters and thereafter, OP was directed to release the new connection to the complainant. No objection regarding MCD booking was raised earlier before the Forum.

Regarding second objection of OP of building height more than 15 meters, In this regard, site visit report clearly shows that building structure is ground floor, mezzanine floor, first floor, second floor, third floor and total height of building is 14 meters, thus this objection of OP does not substantiate.

8. 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 requirement, if so specified or prescribed by the Commission or Authority under any of their Regulations or Orders.

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9. 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.

10. Hon'ble Delhi High Court in the case of W.P. (c) 2453/2019 has held "However, merely because some of the occupants of the building have wrongly been given an electricity connection, it cannot be ground for the court to direct respondents' no. 2 and 3 to further compound the wrong act and direct granting of a new electricity connection to the premises of the petition which is located in the building whose height is more than 15 meters." Therefore, if OP has done something wrong/granted new electricity connection then it cannot be ground for the Forum to further compound the wrong act and direct granting a new electricity connection to the premises.

11. From above discussion it is clear that complainant has applied new connection for mezzanine floor of the building which was rejected on the pretext of building booked by MCD for unauthorized construction vide letter no. D-226/EE(B)/CSPZ /2018 dated 23.01.2018.

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Therefore, there is clear violation of DMC Act 1957. Hence, as per DERC (Supply Code and Performance Standards) Regulations 2017 Rule 11 (2) (iv) (c) and Delhi High Court's Order in case of Parivartan Foundation Vs SDMC & Ors. WP (C) 11236/2017 vide the order dated 20.12.2017, new connection cannot be given.

ORDER


The complaint is rejected. OP has rightly rejected the application of the complainant of the new connection. This Forum is unable to give any relief to the complainant.


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.

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)

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


(P.K. SINGH)
CHAIRMAN