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B Y P L

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/CIN 01508NKS

C A No. Applied for Complaint No. 193/2024

In the matter of:

Mohd KaifComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

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)
5. Mr. H. S. Sohal, Member

Appearance:

1. Mr. Vinod Kumar, Counsel of the complainant
2. Mr. Deepak Pathak, Mr. R.S. Bisht, Mr. Akshat Aggarwal & Ms. Chhavi Rani On behalf of BYPL

ORDER

Date of Hearing: 24th September, 2024

Date of Order: 07th October, 2024

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

1. The brief fact of the case giving rise to this grievance is that the complainant applied for new electricity connection at premises no. 3572, 3rd floor, Mohalla Jatwara, Darya Ganj, Delhi-110002. The application of complainant was rejected by OP BYPL on the pretext of Address in MCD Objection List (Unauthorized Construction) & Dues of CA No. 100068961 infact adjacent building and not the subject building is booked.

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2. The respondent in reply briefly stated that the present complaint has been filed by the complainant seeking a new electricity connection at the third floor of the property bearing no. 3572, Mohalla Jatwara, Darya Ganj, Delhi-110002, vide requests no. 8006717098. The application of the new connection was rejected on two accounts, firstly; property is in MCD Objection list of unauthorized construction Vide letter no. D-254/EE(B)-II/City-S.P.Zone/2023 dated 19.09.2023 at serial No. 75, Owner - Mr. Mirajuddin and Mrs. Naseem Bano, in the shape of unauthorized construction deviation/excess coverage against SBP vide no. 10111364 dated 09.01.2023 at GF, FF, SF, TF and unauthorized construction at entire fourth floor & fifth floor with projection on Mpl. Land. Secondly; Dues at site against CA No. 100068961(D), 401618029, 401601322 and such the connection cannot be granted.

Reply further stated that the applied address falls under same property description and therefore in terms of the Judgment of Hon'ble DB of High Court of Delhi, in a PIL titled as "Parivartan Foundation Vs South Delhi Municipal Corporation & Ors." WP (C) 11236/2017 vide the order dated 20.12.2017, coming heavily against the menace of unauthorized construction passed a direction for non-grant of connection to the building construction in violation of laws and disconnect the supply if the same is granted in UC premises.

3. Counsel for the complainant in its rejoinder refuted the contentions of the respondent as averred in their reply and submitted that the complainant has submitted MCD approved building sanction plan according to MCD rules and regulations.

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It was after payment of building sanction charges of Rs. 1,62,576/- the premises was approved by the MCD vide reference letter no. 100111364 dated 29.01.2023 thereby sanctioning plan of construction from Ground floor to third floor of the applied premises.

As such the said property is an MCD approved constructed property and duly occupied since long. No legal action was ever taken by MCD neither any notice for unauthorized construction was ever served to the owner/occupier of the applied premises from ground to third floor. Only deviation notice is issued by the MCD. As per rejoinder also states that complainants got reliable information from MCD regarding suspension of the MCD notice on unauthorized construction, etc., vide its letter dated 29.03.2023 with reference to Gazette Notification issued by Ministry of Law and Justice on 30.12.2020 regarding the NCT of Delhi Laws (Special Provision Act) Second Amendment ordinance 2020. According to this MCD letter dated 29.03.2023 in which the said Act says, "**all notices issued by any authority for initiating action against encroachment or unauthorized development shall be deemed to have been suspended and no punitive action shall be taken till 31st day of December 2023 and extended upto 2026 in respect of unauthorized constructions.**" Rejoinder referred notification dated 07.11.2016 of NCT of Delhi whereby Electricity is some of the minimum requirements to lead dignified life.

4. Both the parties placed on record the photocopies of the documents in support of their respective contentions. Complainant has filed copies of e-mails of the communication with OP, Deficiency letter, MCD sanction letter alongwith sanctioned map, MCD letter dated 29.03.2023

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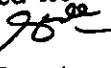
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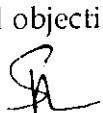
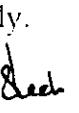
with reference to order dated 24.02.2023 of CIC with attached copy thereof and notification dated 24.12.2023 of Ministry of law and Justice, Govt. of NCT of Delhi alongwith communication dated 22.11.2016 to the DISCOMs sent by the Ministry of Power. On the other hand respondent placed on record copy of its IR, bill of CA no. 100068961 in the name of one Neeraj Kumar beside letter of MCD dated 13.11.2023 to DISCOM as well as Delhi Jal Board regarding disconnection of electricity and water comprising of list of the properties under objection of MCD.

5. Heard and perused the record.
6. Going through the pleadings, the request for new connection, on the premises of the complainant on 3rd floor of premises no. 3572-73, was rejected by the OP on two grounds, firstly the applied premises is under MCD objection for unauthorized construction and secondly there are energy dues on this property.

Regarding pending dues, the complainant does not dispute it and undertakes to pay the dues whatsoever. So far as MCD booking is concerned as per list of MCD premises bearing no. 3572-73, Mohalla Jatwara, Darya Ganj, Delhi has two fold objections. One is regarding GF, FF, SF and third floor that unauthorized construction on these floors is in the shape of deviation/excess coverage against SBP no. 10111364 dated 29.01.2023, second is regarding fourth floor and fifth floor that there is unauthorized construction on these floors with projection on Municipal Land.

As the connection in dispute is with respect to third floor only and there is no issue of height of the building we consider it prudent to limit ourselves to the first fold objection only.

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In this respect OP does not raise any objection against validity of the Sanctioned site plan of applied premises. But pleads that it is under MCD objection. In this regard perusal of list of properties under objection shows that this list at its sl. no. 75 referring the sanctioned plan states that there is deviation/excess coverage against plan and only fourth and fifth floors are unauthorisedly constructed.

7. In this respect relevant provision of law is Regulation 11(2)(iv)© of DERC Supply Code 2017, which says, "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, .

Besides declaration 5 of performa for new connection as provided in annexure-I of DERC (Supply Code and Performance Standards) Regulations 2017, specifically seeks a declaration from applicant "that the building has been constructed as per prevalence building bye-laws and the fire clearance certificate, if required, is available with the applicant."

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.

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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.

Going through the facts of the present case in the light of aforesaid provisions of law we find that though the applied premises are not unauthorisedly constructed but there is deviation/excess coverage against sanctioned plan. That too is violation of concerned provisions of Municipal Act and rules. In which case compounding of the construction is must to bring the applied premises within the parameters of Municipal laws. Accordingly complaint may be allowed only after the compounding takes place, subject to payment of dues.

Regarding MCD letter dated 29.03.2023 referred in Para 12 of rejoinder, going through this letter, we find it relates to unauthorized construction or misuse in existence prior to 01.06.2014 while present violation relates to the year 2023 itself. Hence, this letter of MCD is not applicable in complainant's case.

ORDER

The complaint is allowed with the condition that complainant shall first get the compounding of the applied premises done and pay the pending dues after deducting LPSC, thereafter OP shall release the connection as per request vide no. 8006717098.

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.

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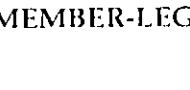
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If the Orders are not appealed against within the stipulated time or no interim stay thereon has been granted by the Ombudsman, the same shall be deemed to have attained finality.

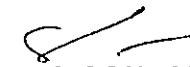
Any contravention of these Orders is punishable under Section 142 of the Electricity Act 2003.

~~(P K SINGH)
CHAIRMAN~~

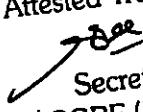

(S.R. KHAN)
MEMBER-TECH


(P.K. AGRAWAL)
MEMBER-LEGAL


(NISHAT AHMAD ALVI)
MEMBER-CRM


(H.S. SOHAL)
MEMBER

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