



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

Phone: 32978140 Fax: 22384886

E-mail:cgrfbyp@hotmai.com

SECY/CHN 015/08NKS

CA No. 150001531 & 100192555
Complaint No. 09/2022

In the matter of:

Mohd Rehan /

.....Complainant

VERSUS

BSES Yamuna Power Limited

.....Respondent

Quorum:

1. Mrs. Vinay Singh Member(Law)
2. Mr. Nishat Ahmad Alvi, Member (CRM)

Appearance:

1. Mohd Rehan, Complainant alongwith his counsel
2. Mr. Imran Siddiqi & Mr. Jagatheesh Kannan, On behalf of BYPL

ORDER

Date of Hearing: 27th April, 2022

Date of Order: 05th May, 2022

Order Pronounced By:- Mrs. Vinay Singh, Member (Law)

Briefly stated facts of the case are that the respondent is not resuming electricity connection of CA no. 150001531 & 100492555.

The complainant's grievance is that his present complaint is raised against the order of Business Manager, division Paharganj dated 27.05.2021. It is further their submission that the complainant is owner of premises bearing no. 8274, New Anaj Mandi, Rani Jhansi Road, Near Filmistan Cinema, Delhi-110006. The said premises have different floors from ground floor till 4th floor with separate

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Complaint No. 09/2022

electricity meters. There was fire on the second, third and fourth floor of the premises on 08.12.2019 and respondent cautiously without serving any notice to the complainant temporarily disconnected the two electricity connections on lower premises as there was neither any fire nor any damage to the electricity meter of the electricity wiring on the lower premises i.e. on the ground floor and first floor of the premises. Thereafter the complainant was arrested and remained in custody for a period of around six months and came out on bail on 29.05.2020.

It is also their submission that after release on bail on 29.05.2020 and having some time to deal with the trauma and suffering, the application wrote respondent on 11.01.2021 requesting for resumption of his electricity supply, he received no response from respondent and again wrote on 08.02.2021. After receiving no response from respondent he approached Hon'ble Delhi High Court in its writ jurisdiction to seek appropriate directions vide writ no. WP (C) 5077/2021. The Delhi High Court vide order dated 29.04.2021 directed the respondent for reactivation of electricity meters and was further directed to dispose off the matter within a period of four weeks from the date of order.

Complainant further added that respondent vide their order dated 27.05.2021 rejected the plea of the complainant for resumption of electricity supply, while relying on Regulation 19 of the DERC Supply code 2017, stating that since the electricity connection had been disconnected for a period of over six months, the plea of the application was to be treated as plea for a new connection. Complainant further added that he is willing to clear any pending dues and arrears calculated as per the existing procedure for billing and willing to fully cooperate with the respondent and undertakes to lend his fullest assistance in process of resumption of electricity connections.

Complaint No. 09/2022

Therefore, he requested the Forum to direct the respondent to resume the electricity connection in CA No. 150001531 and 100492555 on existing terms and conditions.

Notices were issued to both the parties to appear before the Forum on 07.02.2022.

The respondent in their reply submitted that complainant is seeking restoration of CA No. 150001531 and 100492555 registered in his name. It is also their submissions that both the connections were disconnected on 08.12.2019 due to fire in the building which had resulted in loss of life and property. The said two connections have become dormant in terms of Regulation 19 of DERCS Supply Code. Respondent further added that the complainant wants commercial connections and the height of the building is 19.65 meters as such NOC from fire department is needed besides fulfillment of other formalities like trade license, clearance of outstanding dues, if any, etc.

Respondent also submitted that the present petition is not maintainable and complainant should be asked to approach the Hon'ble High Court of Delhi because primarily he is challenging the order passed by Business Manager, Division Paharganj which was passed in terms of directions passed by Hon'ble High court of Delhi in W P (C) no. 5077/2021 titled as Mohd Rehan Vs BYPL. It is also their submission that a fire took place on 08.01.2019 in the factory establishment situated at 8273-8274, New Anaj Mandi, Rani Jhansi Road, Delhi and due to fire 44 employees lost their life and several other employees were injured. As per complainant on account of said fire a FIR bearing no. 204/2019 was also registered leading to his arrest on 08.12.2019 and was finally released on 29.05.2020.

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Complaint No. 09/2022

The complainant moved to Hon'ble High Court and as per directed on the High Court Delhi, he was given an opportunity of hearing and was called for personal hearing which was held on 24.05.2021 and attended by complainant and his counsel.

A detailed order dated 27.05.2021 was passed by the Business Manager, wherein it was held that as connections had become dormant the application seeking for reactivation of old connection has to be treated and processed as an application seeking new connection which cannot be granted as per law on account of height of building till NOC from fire department was deposited. The complainant was further informed that as the total cumulative build up area of the building was more than 1000 sq meters. As such it is essential that an adequate space for installation of transformer and attendant network earmarked and allotted to respondent. The complainant was also informed about the outstanding dues as on that date which in respect of CA NO. 150001531 was Rs. 293418.39/- and in respect of CA No. 100492555 was of Rs. 202858.48/- the complainant was also asked to submit trade storage license. The building of the complainant is divided into many floors as such grant of electricity to ground and first floor, the height of other floors cannot be taken into consideration. It is also submitted that height of building and not floor is to be taken into consideration for safety reasons. BSES has also written to concerned authorities like Fire department, pollution board, NrMCD, SDM, Delhi Police, Power Department and reply from said authorities has not been received till date.

The matter was listed for hearing on 07.02.2022, when respondent filed their reply which was not received by the complainant. Respondent was directed to send it again to the complainant. Complainant was also directed to file rejoinder and all the related materials of Hon'ble High Court.

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Complaint No. 09/2022

Respondent was further directed to file that after disconnection either temporary or permanent and what steps or measures taken and also file copy of disconnection notice.

The complainant submitted his rejoinder refuting therein the contentions of the respondent as averred in their reply and reiterated his original complaint. He further submitted that while electricity supply was disconnected, the electricity meters have not been installed till date and no notice for temporary/permanent disconnection has been served till date. Respondent has neither served him any termination notice nor the meter was disconnected and also respondent is raising bills for fixed charges for the complainant's electricity meter.

Complainant submitted that respondent has recently install new meters for electricity connection under the non-domestic use category in buildings with height more than 15 meters in the neighboring/adjoining area. He again submitted that CA No. which are subject matter of the present complaint are situated on the ground and first floors, where no fire took place. Also, 44 persons who died were not the employees of the complainant. They were working for tenants to whom the complainant had rented out his premises on 2nd, 3rd & 4th floors.

The complainant also submitted citations of various court orders along with his rejoinder.

The matter was again heard on 21.02.2022, when respondent was directed to file written submissions to the rejoinder of the complainant. That as per last order of the Forum to the respondent to file that after disconnection either temporary or permanent and what steps or measures taken and also file copy of disconnection notice, if any.

Complaint No. 09/2022

On hearing dated 11.03.2022, complainant was asked to file architect map and bills of consumer's with date of energization. Respondent was also directed to produce K.No. files of CA No. 1530408692, 1530408652 and 1530408648.

Matter was again heard on 21.03.2022, when complainant filed list of 18 connections of the neighboring buildings in which respondent has released the connection and as per complainant the height of those buildings are more than 15 meters.

Complainant also submitted details of four connections in Anaj Mandi which are released by respondent in 2021 where building height is more than 15 meters. Respondent was directed to provide details of all the connections.

As per the directions of the Forum, respondent submitted list of 17 connections which were energized in the year ranging from 2017 to 2022 in the adjoining buildings whose height is more than 15 meters on the basis of EDMC building completion certificate.

On hearing dated 18.04.2022, complainant submitted that he is ready to file Building completion Certificate of EDMC till 27.04.2022 as on the basis respondent granted other connection in adjoining buildings.

The matter was finally heard on 27.04.2022, when arguments were heard and matter was reserved for orders.

The main issue in the present complaint is whether the connections can be restored/released in form of new connections.

We have gone through the material placed before us. From the narration of facts and material placed before us we find as under:-

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Complaint No. 09/2022

- That the complainant has given a building on rent in which fire broke out on 08.12.2019 and near about 44 workers lost their lives due to which the complainant was sent to the custody for six months and was released on bail.
- The respondent had disconnected the electricity connections installed on whole building as per Regulation 79 & 83 of DERC Supply Code 2017.
- When the complainant released on bail, he approached the respondent for restoration of electricity but respondent refused to grant the connection because the connection is permanently disconnected as per Regulation 19 of DERC Supply Code 2017 for non-payment of billing dues and not applying for reconnection for long time.
- The complainant approached Hon'ble High Court of Delhi for restoration of electricity by way of Writ Petition 5077/2021 and the Hon'ble High Court directed the respondent to treat as a representation for reactivation of the electricity meters. And respondent was directed to pass an appropriate order within four weeks.
- As per the direction of the Hon'ble Court, Business Manager of respondent passed order on dated 27.05.2021 stating therein, "that we cannot restore the electricity because the connections were permanently disconnected for more than six months and for the new connections the complainant has to file the fire clearance certificate due to the building height is more than 15 meters and fulfill other commercial formalities as per DERC Regulations 2017 and clear all the pending dues of both the connections CA No. 150001531 and 100492555.
- After that complainant instead of approaching to Hon'ble High Court file a complaint before the CGRF on dated 24.01.2022.
- The complainant has always raised an objection that respondent has disconnected the electricity without giving notice to the complainant or his family members.

Complaint No. 09/2022

- Lot of hearings were given to both the parties to settle the dispute but failed.
- Complainant on hearing dated 21.03.2022 submitted a list before the Forum in which the respondent has released the connections on the basis of EDMC building completion certificate.
- Respondent on dated 13.04.2022 submitted a list of seventeen connections which were released between the period 2017 to 2022 on Building Completion Certificate by EDMC.
- On this basis the complainant is also ready to submit building completion certificate of EDMC for release of the connections and respondent agreed to this.

After going through all the material aspects of the case, we are of considered opinion that at the time of permanent disconnection, respondent should issue a notice to the family of the complainant or to the complainant as per DERC Regulation 2017 Section 78. In general practice also, before the permanent disconnection also respondent should intimate to the complainant either by any way by notice or affixation and the complainant should also approach to the Hon'ble High Court after passing the order of the Business Manager of the respondent of 29.05.2021 but if the complainant approached to the CGRF, we have the jurisdiction to entertain the complaint for new connection and the restoration of the electricity after passing the order from Business Manager. As per Public Bulletin 13, the final authority of passing the order is Head (Customer Care) which is not followed by the respondent. So, we are of such opinion that if the respondent had released 17 new connections on the basis of Building Completion Certificate from EDMC the same should be dealt on the basis of parity.

Complaint No. 09/2022

Therefore, we direct

1. On the basis of Parity, respondent is directed to release the connections to the complainant on filing the Building Completion Certificate from EDMC/or fire clearance certificate and after fulfilling all the commercial formalities as per DERG Guidelines 2017.
2. Complainant is also directed to pay all the energy dues which is pending on the same premises as he admitted before the forum.
3. Respondent is further directed to waive off LPSC.

The case is disposed off as above.

No order as to the cost. Both the parties should be informed accordingly.
Proceedings closed.

Ans
(NISHAT AHMAD ALVI)
MEMBER (CRM)

Vinay Singh
(VINAY SINGH)
MEMBER (LAW)