



C A No. 100861503
Complaint No. 115/2024

In the matter of:

Neelam Mehta & Priyanka KhullarComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

1. Mr. P.K. Singh, Chairman
2. Mr. Nishat A Alvi, Member (CRM)
3. Mr. P.K. Agrawal, Member (Legal)
4. Mr. S.R. Khan, Member (Technical)

Appearance:

1. Mr. Nishikant Ray, Counsel of the complainant alongwith complainant
2. Mr. Akash Swami, Mr. R.S. Bisht, Mr. S.P. Anand & Mr. Akshat Aggarwal, On behalf of BYPL

ORDER

Date of Hearing: 16th May, 2024
Date of Order: 27th May, 2024

Order Pronounced By:- Mr. P.K. Singh, Chairman

1. The brief facts of the case giving rise to this grievance are that complainant Priyanka Khullar applied for reconnection of electricity connection having CA No. 100861503 at 3-A, Ram Nagar Extension, Delhi-110051. She further stated that she is staying at the above stated property for the last seven years as a tenant. On 19.01.2024, her electricity supply was disconnected and upon enquiry from division

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office Krishna Nagar, she was told that on account of non-payment of dues, the electricity supply has been disconnected. She further submitted that on 24.01.2024, she made the payment of bill amounting to Rs. 17,740/- but OP did not restore her electricity connection. After rigorous follow up with OP she got to know that on the complaint of landlord her connection was disconnected by OP. She requested the Forum to direct the respondent to restore her electricity supply as she is still in possession of the said property.

2. The respondent in reply briefly stated that the complainant is seeking re-connection of the supply against CA No. 100861503 installed at premises bearing no. 3-A, third floor, Ram Nagar Extension, Krishna Nagar, Delhi-110051. OP further added that the complainant is tenant of Ms. Veena Rani Walia who is the actual owner of the said premises. The electricity connection 100861503 was issued in the name of Neelam Mehta. The supply was disconnected on 19.01.2024 due to recovery of non-payment of electricity dues amount to Rs. 17,740/-.

Reply further added that OP received a letter from owner of the property namely Ms. Veena Rani Walia, requesting that no connection should be restored on the said premises without her consent, owing to certain dispute of all kinds between the landlord (Ms. Veena Rani Walia) and tenant (Priyanka Khullar) also the complainant.

3. Counsel of the complainant submitted its rejoinder, refuting therein the contentions of the respondent as averred in their reply and submitted that the supply of the complainant was disconnected on account of non-payment of electricity dues amounting to Rs. 17,740/- and said dues has already been paid by the complainant on 24.01.2024 but till date OP has not restored the electricity supply which as per Regulation should be restored within 2 days.

For
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4. Rejoinder further stated that lease deed executed between the applicant and the landlord namely Veena Rani on 28.12.2015 for the period of 11 months and as per said lease deed, the applicant paid a sum of Rs. 5,00,000/- as security to the landlord and after execution of the said lease deed as well as receiving the above said amount, the landlord gave the peaceful/legally possession of the tenanted premises to the applicant.

On 19.09.2022 a Memorandum of Understanding was executed between the applicant and landlord namely Veena Rani in respect of returning the security amount of Rs. 5,00,000/- by the landlord. In this regard, the landlord Ms. Veena Rani has issued a cheque of Rs. 2,16,000/- in favour of the complainant and remaining Rs. 2,50,000/- would be given on or before 05.10.2022 to the complainant and the complainant would vacate the premise, but the landlord never paid the above said remaining amount of Rs. 2,50,000/- to the complainant.

5. Arguments of both the parties are heard.

6. The admitted part of the case are that the complainant Priyanka Khullar inducted as a tenant in disputed premises bearing address 3A, 3rd floor, Ram Nagar Extension, Krishna Nagar, Delhi-110051 and at that time electricity connection having CA no. 100861503 was live. Due to non-payment of electricity dues amounting to Rs. 17,740/- aforesaid connection was disconnected. Complainant the tenant requested to reconnect the supply of the above connection after the payment of the pending dues which was regretted on ground of landlord Veena Rani Walia's complaint that the tenancy was for the period of 01.10.2016 to

31.08.2017.

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7. From the perusal of Lease Deed, it is apparent that complainant tenant came in possession by virtue of a Valid Lease Deed and paid Rs. five lakhs by cheque as a security which was to be returned at the time of eviction after deducting the damages.
8. Memorandum of Understanding, copy of which has been filed by OP itself shows that "whereas the second party will vacate the tenanted premises on or before 05.10.2022 and handed the peaceful and vacant possession to the first party and will hand-over the demand draft at the time of receiving the key of the tenanted premises. The keys of the ~~ten~~ tenanted premises and the demand draft will exchange in the presence of Sh. Naveen Kumar Goyal and Sh. R.P. Singh Advocate in Karkardooma Courts, Delhi.
9. It shows that the complainant came in possession of premises by valid tenant lease deed and even now there is no evidence regarding the fact that she has been evicted from the premises with the due course of law.
10. Hon'ble Supreme court in the matter of Dilip (dead) LR Vs Satish, in the case no. SCC 810 dated 13.05.2022 has held that "It is now well settled proposition of law that electricity is a basic amenity of which a person cannot be deprived. Electricity cannot be declined to a tenant on the ground of failure/refusal of the landlord to issue no objection certificate. All that the electricity supply authority is required to examine is whether the applicant for electricity connection is in occupation of the premises in question."

Even on the principle of law there should be equity before law and equal protection of law in the spirit of constitution.

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11. Hon'ble Allahabad High Court in the Writ -C No. 5548 of 2024, in the matter of Dr. Ashok Sharma and another Vs. State of UP and 4 others, relying on the Judgment of Anand Kumar Vs. State of UP and others, 2023 (3) ADJ 668 (DB) has laid down as under:

10. A bare reading of the provisions of the Electricity Act, 2003 go to show that every distribution licensee is under an obligation not only to develop but also to maintain efficient, coordinated and economical distribution system in the area of its supply. The provision of Section 43 of the Electricity Act cast a statutory duty upon the distribution licensee to supply electricity not only to owner but also occupier of the premises located within the limits of the area of its supply subject to an application being made by owner or occupier in this regard and correspondingly the owner or occupier of any premises, as the case may be, has statutory right to supply and obtain such electricity supply from the distribution licensee. Of course, the right is subject to completion of formalities provided for the purpose.

11. Electricity Supply Code, 2005 reference of which has been made by learned counsel for the respondents to contend that electricity connection cannot be granted without consent from the owner enforced in 2005 enlists the obligations of the licensee and consumers vis-à-vis each other and specifies the set of practices to provide efficient, cost effective and consumer friendly service to the consumers. Under Clause 2.2 (oo) of 2005 Code 'Occupier' means the owner or authorized person in occupation of the premises where energy is used or proposed to be used. Clause 4.4 prescribes procedure for processing of application for supply. Clause 4.4 (a) which is relevant for the purpose of the present case reads as under:

.....
16. From the reading of the aforesaid provisions, it is clear that license is under an obligation to supply electrical energy on a proper application being made and every owner or occupier, which will include a tenant, of the premises has statutory right to apply and obtain electricity supply from the licensee subject to his fulfilling requirements under the provisions of the Electricity Act, 2003 and the Electricity Supply code 2005."

12. Thus from the above, the legal position is very much clear that as per Schedule of the Act 2023, an occupier of the premises is entitled for electricity connection and licensee cannot deny the electric connection to such an occupier of the premises.

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ORDER


The complaint is allowed. OP is directed to restore the electricity connection of the complainant vide CA No. 100861503.

OP is also directed to file compliance report within 07 days from the date of this order, failing which OP will be liable to pay compensation to the complainant in case of default as per DERC Regulations 2017.

The case is disposed off as above.

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


(NISHAT A ALVI)
MEMBER (CRM)


(P.K. AGRAWAL)
MEMBER (LEGAL)


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


(P. SINGH)
CHAIRMAN

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