

C A No. Applied ForComplaint No. RA No. 10/2024 IN C.G. No. 105/2024

In the matter of:

Rajat Aggarwal

.....Complainant

VERSUS

BSES Yamuna Power Limited

.....Respondent

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

Appearance:

1. Mr. Imran Ul Haq Siddiqi, Counsel of the complainant
2. Ms. Ritu Gupta, Mr. R.S. Bisht & Ms. Chhavi Rani, On behalf of BYPL

ORDERDate of Hearing: 06th August, 2024Date of Order: 13th August, 2024Order Pronounced By:- Mr. P.K. Agrawal, Member (Legal)

1. The complainant approached the Forum on 14.02.2024 for installation of new electricity connection. The Forum heard both the parties at length and vide its order dated 06th June 2024 allowed the complainant's application for new connection and directed OP to release the new electricity connection as applied for by the complainant under

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domestic category vide application no. 8006759192 at premises no. 1139, pvt. No. 311(1139/311) Kucha Mahajani, Chandni Chowk, Delhi-110006 after completion of the commercial formalities as per DERC Regulations 2017 and sixth amendment.

2. Against this order of the Forum, OP filed a review petition in the Forum on the following grounds:-
 - i) That the complainant has sought fresh non-domestic electricity connection on third floor of property bearing no. 1139, Pvt. No. 311(1139/311), Kucha Mahajani, Chandni Chowk, Delhi-110006.
 - ii) The application of the complainant was allowed by the Forum vide its final order dated 06.06.2024 taking that the applicant applied for domestic connection and as such was covered under sixth amendment which is applicable in respect of domestic connections whereby height of the applied floor and not of the building is to be taken into consideration.
 - iii) That admittedly building structure is of ground floor + four floors over it + tin shed covering 50% of area. Thus admittedly as building height is more than 15 meters and as entire building is used for commercial purposes having various shops/offices as such no new connection can be granted without fire clearance certificate.
 - iv) That there is error apparent in the final order hence the same needs to be review by this forum which has been empowered by Regulation 37 of the Delhi Electricity Regulatory Commission (Guidelines for establishment of the Forum and the Ombudsman for Redressal of Grievances of the Electricity Consumers) Regulations 2024.

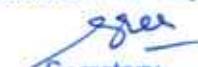
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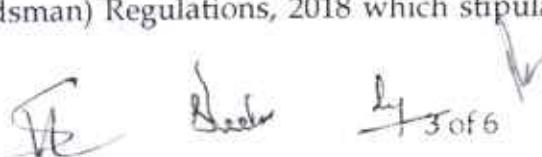

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3. Along with OP, the complainant also filed a review petition in the Forum on the following grounds:-
 - i) That the complainant applied for new non-domestic connection vide order no. 8006759192 but Forum in its order has mentioned **domestic** category instead of non-domestic category.
 - ii) That OP in its reply has also admitted/mentioned that the complainant has applied for new Non-domestic connection at third floor of property no. 1139, pvt. No. 311(1139/311), Kucha Mahajani, Chandani Chowk, Delhi-110006. And the applied new non-domestic connection vide request no. 8006759192 was rejected as the building consists of ground plus four floors over it with a tin shed on the roof of fourth floor hence building height is more than 15 meters and as such the application is required to submit fire clearance certificate or BCC and building is commercial in nature having 18 connections.
 - iii) That this Forum in matter of Pradep Jain vs BYPL, C.G no. 249/2023 has taken a view and ordered for release of new connection on third floor of building wherein a room of 25 sq yards was constructed above the roof of fourth floor of a commercial building.
4. We have heard both the parties in details and perused the pleadings filed by them.
5. This Forum can review the orders under Regulation 19 of the Delhi Electricity Regulatory Commission (Forum for Redressal of Grievances of the Consumers and Ombudsman) Regulations, 2018 which stipulates as follows:-

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Power to Review

(1) Any person may file an application for review before the Forum, upon the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was passed or on account of some mistake or error apparent from the face of the record, within thirty (30) days of the date of the order, as the case may be.

(2) An application for such review shall clearly state the matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was passed or the mistake or error apparent from the face of the record. The application shall be accompanied by such documents, supporting data and statements as the Forum may determine. (3) When it appears to the Forum that there is no sufficient ground for review, the Forum shall reject such review application:

Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.

(4) When the Forum is of the opinion that the review application should be granted, it shall grant the same provided that no such application will be granted without previous notice to the opposite side or party to enable him to appear and to be heard in support of the order, the review of which is applied for.

6. It can be seen that the substance of OP's pleading is that final order of the Forum inadvertently mentioned domestic category connection and also gave the benefit of sixth amendment to the complainant considering the application of the complainant for new connection under domestic category.

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7. The respondent in its original reply dated 09.04.2024 had briefly stated that new electricity connection has been applied by the complainant vide request no. 8006759192 at premises no. 1139, pvt. No. 311 (1139/311), Kucha Mahajani, Chandani Chowk, Delhi-110006 and said application of the complainant was rejected as applied premises consists of ground plus four floors over it with a tin shed on roof of fourth floor covering around 50 sq yards making height of the building more than 15 meters. As such applicant is required to submit Fire Safety Clearance Certificate or a building Completion Certificate (BCC) in lieu thereof. OP further added that building is commercial in nature and has 18 connections.
8. Rejoinder filed by counsel of the complainant refuted the contentions of the respondent as averred in their reply and stated that the tin shed over the fourth floor is only covering 50 sq yards out of total plot area of 100 sq yards. He further stated that OP itself has released a new commercial connection on the second floor of the building of the complainant in November 2023, and that too without any Building Completion Certificate; therefore, he is also not required to file fire clearance certificate or building completion certificate for release of new domestic connection.
9. From the narration of facts and material placed before us we find that it is admitted fact that building structure is ground plus four floors over it. Only because of tin shed above the fourth floor and that too only in 50 sq yards of total area of 100 sq yards, OP rejected the application of the complainant for new connection under domestic category. We also find that OP has released a new electricity connection on 11.11.2023 under commercial category on second floor of the applied building without any Building Completion Certificate or Fire Clearance Certificate.

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10. The plea of OP and the complainant for filing review is allowed. The orders of the Forum is modified as under:

ORDER

The complaint is allowed with the direction to OP to release the new non-domestic connection as applied for by the complainant at third floor of property no. 1139, pvt. No. 311(1139/311), Kucha Mahajani, Chandani Chowk, Delhi-110006, considering the tin shed as temporary structure. The complainant is also directed to file an undertaking /affidavit mentioning therein that the temporary tin structure on the roof top will not be used for any residential or commercial activity and if found so, OP will be at liberty to take action accordingly as per law.

OP is also directed to file compliance report within 21 days from the date of this order.

Case is disposed off as above.

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

Proceedings closed.


(S.R. KHAN) 13/2/24
MEMBER-TECH

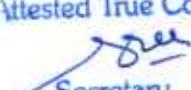

(P.K. SINGH)
CHAIRMAN


(P.K. AGRAWAL)
MEMBER-LEGAL


(NISHAT AHMAD ALVI)
MEMBER-CRM


(H.S. SOHAL)
MEMBER

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