

C A No. Applied for
Complaint No. 338/2024

In the matter of:

Ram ShnehiComplainant

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. Ram Shnehi, Complainant
2. Ms. Kavya, Mr. R.S. Bisht, Ms. Chhavi Rani & Mr. Akshat Aggarwal, On behalf of BYPL

ORDER

Date of Hearing: 01st October, 2024

Date of Order: 07th October, 2024

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

1. The brief facts of the case giving rise to this grievance are that the complainant applied for new electricity connection at premises no. E-4/61, GF, E-4 block, Nand Nagri, Delhi-110093, vide request no. 8006924868. The application of complainant was rejected by OP on the pretext of BYPL pole found encroached.

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CGRF (BYPL)

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2. The respondent in their reply briefly stated that the complainant applied for a new electricity connection under non-domestic category at property no. Shop mp/ E-4/61, E-4 block, Nand Nagri, Near DDA Market, Delhi-110093, vide request no. 8006924868. Reply further states that on site verification it was found that the building structure consists of Ground floor + first floor and pole was encroached and there was no safe distance maintained between the premises and the electricity pole. The subject premises was revisited by O&M team and vide their mail dated 22.05.2024, O&M confirm that no connection is feasible at the subject premises and further that accessibility notice to the consumer of C A no. 152610692 stands issued.
3. Rejoinder against the reply of OP was filed by the complainant stating therein that his shop measures only 6 gaj and the pole which OP is objecting is adjacent to the adjoining shop and his shop is at the distance from that pole. Rejoinder also stated that the pole in question is dead pole. The connections are being issued from the other pole. Complainant also placed on record photographs of the site showing the pole.
4. Heard both the parties and perused the record.
5. The issue is (a) whether the new connection can be released to the complainant in view of pole encroachment.
6. The relevant provision for this complaint are Regulation 11 (2) of DERC Regulations 2017 and Regulation 60 & 61 of the Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010 are narrated below:

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Regulation 11 New Electricity Connections:-

(2) Field Inspection:-

(iv) 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 other requirement, if so specified or prescribed by the Commission or Authority under any of their Regulations or Orders.

S. No.	Lines/installations	Minimum vertical clearance where line is passing above a building/structure/balcony etc.	Minimum Horizontal clearance where line is passing adjacent to a building/structure/balcony etc.
1.	Low or medium voltage lines and service lines upto 650 v	2.5. meters from the highest point	1.2 meter from the nearest point
2.	High Voltage line upto and including 11,000 volt	3.7. meters from the highest point	1.2 meter from the nearest point
3.	High Voltage line above 11,000 volt and upto and including 33000 volt	3.7. meters from the highest point	1.2 meter from the nearest point
4.	Extra High Voltage line above 33000 volts	3.7. meters from the highest point (Plus 0.30 meter for every additional 33000 volts or part thereof)	2 meters (Plus 0.30 meter, for every additional 33000 volt or part thereof.

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Central Electricity Authority (Measures relating to safety and electric supply) Regulations 2010 is as follows:

60. Clearance from buildings of lines of voltage and service lines not exceeding 650 Volts.-

(1) An overhead line shall not cross over an existing building as far as possible and no building shall be constructed under an existing overhead line.

(2) Where an overhead line of voltage not exceeding 650 V passes above or adjacent to or terminates on any building, the following minimum clearances from any accessible point, on the basis of maximum sag, shall be observed, namely:-

(i) for any flat roof, open balcony, varandah roof and lean-to-roof-

- (a) when the line passes above the building a vertical clearance of 2.5 metres from the highest point, and

- (b) when the line passes adjacent to the building a horizontal clearance of 1.2 metres from the nearest point, and

(ii) for pitched roof-

- (a) when the line passes above the building a vertical clearance of 2.5 metres immediately under the line, and

- (b) when the line passes adjacent to the building a horizontal clearance of 1.2 metres.

(3) Any conductor so situated as to have a clearance less than that specified above shall be adequately insulated and shall be attached at suitable intervals to a bare earthed bearer wire having a breaking strength of not less than 350 kg.

(4) The horizontal clearance shall be measured when the line is at a maximum deflection from the vertical due to wind pressure.

5) Vertical and horizontal clearances shall be as specified in schedule-X.

Explanation: - For the purpose of this regulation, the expression "building" shall be deemed to include any structure, whether permanent or temporary.

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7. To sum up OP alleges that there is violation of Regulation 11 (2)(iv)(c) of DERC (supply Code and Performance Standards) Regulation 2017, hence, connection cannot be granted. As per this Regulation Licensee/OP may not sanction the load, if upon inspection, the licensee finds that the energization would be in violation of any provision of the act, Rules, Regulations or any other requirements if so specified or prescribed by the commission or Authority under any of their Regulations or order.

8. Going through the Regulation 60 & 61, we find that it mandates to follow a minimum horizontal and vertical clearance required to be maintained from electricity mains/installations for any building/structure/balconies/verandas/roof/chajja where an extra high/medium/low voltage line passes above or adjacent to any building or part of the building to avoid any electrical accident. Section 53 and 63 read with Section 161 of the Electricity Act, also provide for safety measure.

9. In the present case OP has raised deficiency of pole encroachment. During the course of arguments following facts were revealed:-

- That the pole in question is dead pole and at present there is no connection energized from this pole.
- That the dead pole is between the two buildings and OP has released the electricity connection in the other building also.
- The complainant applied for new connection vide application no. 8006924868. OP visited the premises of the complainant for technical feasibility and found that the complainant has encroached the electricity pole, thus application of the complainant was rejected.

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10. In view of the above, we are of considered opinion that the pole in question is dead pole and at present no connection is energized from the existing pole. Also, OP has released the new connection in the adjoining building. Forum in its earlier orders have given connections to the buildings where pole is encroached but not grabbed inside the walls of the building.
11. On that fact that even as per law as mentioned in Regulation 60 (3) of above Regulation 2010 if the distance is less than 1.2 meter, connection can be given if it is adequately insulated. There is no dispute regarding the fact that the supply of electricity is provided totally through insulated wire. Hence, on this very ground complainant cannot be deprived of the electricity connection.
12. Thus we are of the considered view that there is no violation of Electricity Act and Regulations of 2017 aforesaid and Regulation 11 (2) (iv)(c) of Regulation 2017 is no more a hindrance in granting the electricity connection in the applied premises. While various courts provide electricity as basic necessity as follows:
Water and electricity are integral part of right to life. Hon'ble Supreme Court in the matter of Dilip (Dead) LR vs Satish, in case no. SCC online SC810 dated 13.05.2022 has held that electricity is basic amenity which a person cannot be deprived off. Even on the principle of law there should be equity before law and equal protection of law in the spirit of constitution.
13. Thus, the objection of the OP is no justified and we cannot deprive the complainant of electricity. Therefore, OP is hereby directed to grant the application of the complainant for electricity connection in the applied premises.

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ORDER


The complaint is allowed. OP is directed to release the new connection to the complainant after filing an undertaking by the complainant that he would not breach the distance between his building and the pole.


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

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