

C A No. Applied for
Complaint No. 424/2024

In the matter of:

Renu Bhardwaj

.....Complainant

VERSUS

BSES Yamuna Power Limited

.....Respondent

Quorum:

1. Mr. P.K. Singh, Chairman
2. Mr. P.K. Agrawal, Member (Legal)
3. Mr. S.R. Khan, Member (Technical)
4. Mr. H. S. Sohal, Member

Appearance:

1. Mr. Nishikant Ray, Counsel of the complainant
2. Mr. Akash Swami, Mr. R.S. Bisht, Ms. Chhavi Rani & Mr. Lalit, On behalf of BYPL

ORDER

Date of Hearing: 5th December, 2024

Date of Order: 16th December, 2024

Order Pronounced By:- Mr. P.K. Agrawal, Member (Legal)

1. The brief facts of the case giving rise to this grievance are that the complainant applied for new electricity connection at premises no. R-48, Fourth Floor Gali No.-1, Ramesh Park, Laxmi Nagar, Delhi-110092, vide request no. 8007058323. The application of complainant was rejected by Opposite Party on the pretext of Address appearing in MCD List, Court Dispute & Building height is more than 15 meters, but complainant stated that all the meters have been installed in same premises except 4th floor (applied floor).

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CGRF (BYPL)

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2. The respondent in reply briefly stated that the present complaint has been filed by the complainant seeking for one new electricity connection at premises no. R-48, Fourth Floor Gali No.-1, Ramesh Park, Laxmi Nagar, Delhi-110092, vide request no. 8007058323. The application of the new connection was rejected on the following grounds:

Firstly; property is in MCD Objection list of unauthorized construction "in the shape of ground floor and first floor with projection," vide letter no. EE(B)-I/Sh(S)2021/D-2632 dated 11.02.2021 at serial No. 13.

Secondly; Applied premises has a building structure of Ground+ Four floors and the applied connection is sought on 4th floor which mandates the requisite Architect Certificate in terms of the applicable Regulations contained in DERC (Supply Code and Performance Standards) Regulations, 2017.

Regarding existing connections, the said connections were granted prior to November 2018 dated since when in the terms of **Parivartan Foundation V/S South Delhi Municipal Corporation and ors.** Judgments in cases of MCD Booked premises connections are not granted till Building Completion Certificate (BCC) or NOC from MCD are provided.

3. Counsel for the complainant rebutted the contentions of the respondent was averred in their reply and submitted that said building is old and constructed up to ground floor to 4th floors. All the flats in building already have electricity connections but only fourth floor have not been electrified and building height below 15 meters according to DERC guidelines. Complainant stated that multiple premises have similar address bearing no. R-48 and complainant's premises are not booked by MCD.

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4. Heard arguments of both the parties were heard at length.
5. As per orders of the Forum, OP filed additional submissions in which they have reiterated their original reply and also attached disconnected notices served to other occupants of the building to whom they have released the connections vide C A no. 153509003, 153502805, 153502801, 153502797, 153502795 and 153502793.
6. From the narration of the facts and material placed before us we find that OP raised two fold deficiencies for rejecting application of the complainant for new connection. Firstly; the building is appearing in MCD booking lists dated 11.02.2021. Secondly; the complainant has applied for new connection on fourth floor which mandates the requisite of Architect Certificate.
7. Regarding first objection of OP of MCD booking, complainant stated that many properties having number R-48 exist, but the complainant could not provide any evidence in this regard. Regarding second objection of height, complainant stated building height below 15 meters and in accordance to DERC Guidelines.
8. As far as legal position is confirmed according to DERC (Supply and Performance Standards) Regulations, 2017 Rule10 (3) for the new connection proof of ownership or occupancy is required.
Performa for new connection has been provided in DERC (Supply and Performance Standards) Regulations, 2017 as annexure 1, seven declarations are required as per forma and in this case 5th one is important "that the building has been constructed as per prevalence building bye-laws and fire clearance certificate, if required, is available with the applicant."

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DERC (Supply Code and Performance Standards) Regulations 2017, Rule 11 (2)(iv)(c) shows that "the Licensee shall not sanction the load, if upon inspection, the Licensee finds that:

the energizaiton 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.

9. Hon'ble Supreme Court of India in the matter "Supertech Vs Emerald Court Owners Resident Welfare Association (2021) 10 SCC 1, observed that unauthorized construction destroys the concept of planned development and places unbearable burden on basic amenities provide by local authorities. It was imperative for the public authorities to not only demolish such construction but also to impose a penalty on wrong doers involved.

Hon'ble Delhi High Court in case of Parivartan Foundation V/S. South Delhi Municipal Corporation & Others W.P. © 11236/2017 dated 20.12.2017 has laid down that

1. 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.
2. 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.

Hon'ble Delhi High Court in the case of W.P. (c) 2453/2019 has held "However, merely because some of the occupants of the building have wrongly been given an electricity connection; it cannot be ground for the court to direct respondents' no. 2 and 3 to further compound the wrong act and direct granting of a new electricity connection to the premises of the petition which is located in the building whose height is more than 15 meters."

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10. Thus, in view of above, we are of considered opinion that the new connections applied by the complainant cannot be granted. For release of the new electricity connections the complainant has to file Building Completion Certificate from Municipal Corporation of Delhi.

ORDER


The complaint is rejected. Respondent has rightly rejected the application of the complainant of the new connection. However, if in future the complainant submits Building Completion Certificate, OP should to release him new electricity connection, subjection to fulfilling any other required formalities.

The parties are hereby informed that instant Order is appealable by the Consumer before the Ombudsman within 30 days of the receipt of the Order.

If the Order is not appealed against within the stipulated time, the same shall be deemed to have attained finally.

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


(H.S.SOHAL)
MEMBER


(P.K. AGRAWAL)
MEMBER (LEGAL)


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


(P.K.SINGH)
CHAIRMAN

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CGRE (MCD)