

C A No. Applied for
Complaint No. 353/2024

In the matter of:

Rohit Kashyap

.....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. Vinod Kumar, Counsel of the complainant
2. Mr. Akash Swami, Mr. R.S. Bisht, Mr. Akshat Aggarwal & Ms. Chhavi Rani, On behalf of BYPL

ORDER

Date of Hearing: 17th December, 2024

Date of Order: 23rd 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. 520-A/17, First Floor, GT Road, Dilshad Garden, Industrial Area, Shahdara, Delhi-110095, vide requests no. 8006957219. The application of complainant was rejected by Opposite Party (OP) BYPL on the pretext of Address of MCD Objection, but complainant stated that all objections are illegally and unlawfully.

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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 connection at premises No. 520-A/17, First Floor, GT Road, Dilshad Garden, Industrial Area, Shahdara, Delhi-110095, vide requests no. 8006957219. The application of the new connection was rejected as the property is in MCD Objection lists of unauthorized construction vide letters no. EE(B0-I/SH-N/2016/D-487 dated 12.07.2016, at serial no. 1, 3, 33, letter bearing no. EDMC/EE(B)-I/SH-N/2018 dated 08.02.2018, at serial no. 44, 108, 293, 294, letter bearing no. EE(B)-I/SH-N/2019/D-61 dated 12.04.2019, at serial no. 33, letter no. EE(B)-I/SH-N/2019/D-87 dated 22.05.2019, at serial no. 117, letter bearing no. EE(b)-I/SH-N/2017/D-327 dated 11.12.2017, at serial no. 14, 15, the unauthorized construction in is in the shape of Basement, Tin Shade on brick wall at Ground Floor and raising wall at First Floor, laying RCC slab on existing stone slab in entire First Floor.

The site was visited on 27.05.2024 and it was found that the building structure consists of a Basement plus Ground Floor and Two Floors over it. OP stated that the complainant applied for temporary connection and the same was released, bearing temporary meter no. 35932078 by submitting Affidavit cum undertaking, this was duly signed by the complainant. The aforementioned Affidavit cum undertaking clearly mentioned that the complainant will provide clearance from the concerned department if any issue with regard to MCD arises. The new electricity connections are provided as per Electricity Act and regulations framed in respect thereto i.e. DERC (Supply Code and Performance Standards) Regulations, 2017.

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3. Counsel for the complainant rebutted the contentions of the respondent averred in their reply and submitted that at the time of construction of the said property after its purchase, the complainant has applied for temporary connection which was sanctioned upon the property in question.

Rejoinder further added that the affidavit filed by the complainant is under the formalities only and not as per objection of MCD.

4. Both the parties were directed to conduct joint site visit and its report dated 09.12.2024 placed on record stated as under:-

- a) Applied Building structure is Basement+ Ground Floor+ two Floor over it.
- b) Temporary meter no. 35932078 installed at applied premises.
- c) MCD booking/objection not confirmed.

5. Heard arguments of both the parties at length.

6. From the narration of facts and material placed before us we find that there are numerous MCD objection lists. It also transpired during the arguments that plot no. 520 is a big plot and it's difficult to ascertain which part of the property is booked. Moreover, it is an industrial plot and the complainant has not placed on record any permission for sub-division of industrial plot from the competent authority.

While obtaining temporary connection, the complainant himself has given an affidavit/undertaking to the OP that the complainant will use the connection only for construction purpose and after completed the building he will apply for the permanent connection that time if any issue of MCD arises, he will provide the clearance from the concerned department.

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7. As far as legal position is concerned, according to DERC (Supply and Performance Standards) Regulations, 2017 Rule 10 (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 form 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."

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 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.

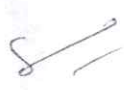

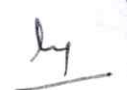
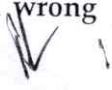
Hon'ble Supreme Court of India, recently in the matter of Rajender Kumar Barjatya & Another Vs UP Avas Evan Vikas Parishat & Ors. in Civil Appeal No. 14605 of 2024 has clearly stated in para 21 (iv) that all the necessary service connections, such as electricity, water supply, sewerage connection, etc. shall be given by the service provider/board to the buildings only after the production of the completion/occupation certificate.

Sub-division of industrial plot without permission of the competent authority is an unauthorized act.

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 provided 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.

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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."

8. 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

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

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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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