



C A No. Applied for
Complaint No. 550/2024

In the matter of:

Sarika Sharma

.....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. Shubham Prajapati, 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: 19th December, 2024

Date of Order: 30th December, 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 a new electricity connection at premises no. 8948-51, Gali no. 1-2, Multani Danda, Paharganj, Delhi-110055, vide request no. 8007118290, 8007118303 and 8007118276. The applications of complainant were rejected by OP on the pretext of MCD Objection.

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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 new electricity connection at the first floor, second floor and third floor of the property bearing no. 8948-51, Gali no. 1-2, Multani Danda, Paharganj, Delhi-110055, vide request no. 8007118290, 8007118303 and 8007118276. The applications of the new connection were rejected on the ground that the applied premises is booked by MCD vide its letter bearing no. EE(B)/KBZ/2022/412 dated 10.10.2022 to the respondent company. The property of the complainant is mentioned at sl. no. 7 and is in the shape of unauthorized construction in the shape of excess coverage/deviations against SBP ID no. 10104693 dated 02.07.2022 in stilt, GF and FF.

Reply further stated that the complainant has filed BCC and the alleged BCC submitted by the complainant does not come to the rescue as the alleged BCC issued by the Architect namely Mr. Gurfan who has already been debarred by MCD. OP also sent a mail to MCD to ascertain the factum of MCD booking and alleged BCC status, upon which the response received from the MCD, clearly establishes the factum of booking. The extract of the mail from MCD is reproduced here:

"However, as per record property has been booked by this office for unauthorized construction vide file no. 206 dated 05.09.2022 and 103 dated 22.03.2023."

3. The complainant in rejoinder refuted the contentions of respondent as averred in their reply and stated that the MCD booking is of dated 10.10.2022 however, the MCD itself granted BCC to the complainant on 24.03.2023, which proves that the property of the complainant is free from MCD booking after issuance of BCC.

Rejoinder further states that regarding the objection of OP that the Architect Mr. Gurfan, who issued the complainant BCC, is debarred, thus the BCC issued by him is not to be considered.

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In this regard, the complainant stated that the BCC was issued to them on 24.03.2023 and the Architect Mr. Gurfan has been debarred by MCD only in January 2024 and February 2024.

4. Arguments of both the parties were heard.
5. From the narration of facts and material placed before us we find that the complainant's property is appearing at sl. no. 07 of MCD booking list dated 10.10.2022. The booking details mention that the "unauthorized construction in the shape of excess coverage/deviations against SBP I.D. no. 10104693 dated 02.07.2022 in stilt, GF, FF".

The property of the complainant is not totally booked and MCD in its letter has clearly mentioned that there is Deviation from SBP ID No. 10104693 from stilt, GF, FF, which shows that there is some deviation in construction from the Sanctioned Building Plan. The entire construction is not unauthorized.

We also observe that the Architect Certificate has been issued to the complainant on 24.03.2023 and the Architect got de-barred in January/February 2024. MCD nowhere mentions regarding the BCC issued by the said Architect. The Architect Mr. Gurfan has been debarred for further period only.

6. 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.

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7. We are of the view that the respondent may be directed to provide the connection with the condition that at the time of release of new connection the complainant should file an affidavit that if MCD takes any action against the encroached property then OP should be at liberty to disconnect the supply of the complainant.

ORDER

Complaint is allowed. Respondent is directed to release the connection applied by complainant after completion of all the commercial formalities and after giving the undertaking regarding the fact that whenever MCD in future will take action against the illegal construction, OP is free to disconnect the new electricity connection.


This Order shall be complied 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 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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Secretary
CGRF (BYPL)