



Consumer Grievance Redressal Forum

FOR BSES YAMUNA POWER LIMITED

(Constituted under section 42 (5) of Indian Electricity Act. 2003)

Sub-Station Building BSES (YPL) Regd. Office Karkardooma,

Shahdara, Delhi-110032

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SECY/CHN 015/08NKS

C A No. Applied For
Complaint No. 134/2022

In the matter of:

Shah NazarComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

1. Mrs. Vinay Singh Member(Law)
2. Mr. Nishat Ahmad Alvi, Member (CRM)

Appearance:

1. Mohd. Afsar, A.R. of the complainant
2. Mr. Imran Siddiqim Ms. Seema Rawat, Ms. Renu Mehra & Ms. Shweta Chaudhary, On behalf of BYPL

ORDER

Date of Hearing: 26th July, 2022

Date of Order: 04th August, 2022

Order Pronounced By:- Mrs. Vinay Singh, Member (Law)

Briefly stated facts of the case are that the complainant applied for new electricity connection but respondent has not released the new connections till date.

The complainant's grievance is that he applied for new electricity connection vide application no. 8005672608 but respondent rejected his application for new

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connection on pretext of enforcement dues of CA no. 401425154 and building height more than 15 meters. He also submitted that he submitted Building Clearance Certificate issued by the EDMC in 2020. Therefore, he requested the Forum to direct the respondent for immediate release of the new connection.

Notices were issued to both the parties to appear before the Forum on 21.07.2022.

The respondent in their reply submitted that applicant has sought new connection against request no. 8005672608 at premises no. F-153-A/1F, Fourth Floor, Ramesh Park, Laxmi Nagar, Delhi-92. It is also their submission that there are already nine connections in the applied building. Respondent further added that the connections were granted as per law after receiving Building Completion Certificate. As per the site visit report at the time of grant of nine connections the premises consisted of parking+UGF+3 floors. In the BCC map also as supplied the premise structure is same. The complainant applied for new connection at fourth floor which is physically fifth floor. The complainant relies on the same BCC on the basis whereof earlier connections were granted. As per the map submitted along with BCC, building comprises of Parking+UGF+3 floors whereas applied premise is at fourth floor which does not exist on submitted map or to say there is no BCC in respect of applied floor.

Respondent also added that at the time of site visit against request no. 8005672608 it was found that parking area has been converted into flats and as such as the applied address is over 15 meters and no electricity connection can be granted even in terms of sixth amendment.

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The matter was listed for hearing on 21.07.2022, when counsel of the complainant is present in person and Forum noted that the Complainant filed complaint for releasing the connection on 4th floor. Respondent submitted that building height is more than 15 meters. Respondent is directed to measure height of the building and details of the parking area whether is solely used for parking purpose or not. A joint inspection team was formed to conduct in the presence of complainant and his counsel on 25.07.2022 at 12.00 PM.

Respondent submitted joint inspection report stating therein that height of the applicant's premises is measured in presence of applicant's son Mr. Mohd Bilal and Husband Fathe Mohammad. "Building height is 18.20 meter without stilt parking, building structure G+UGF+4. As per site visit one flat/dwelling unit exist at ground floor and more than 60% area is occupied by flat/dwelling unit at ground floor."

The matter was finally heard on 26.07.2022, when respondent was directed to file an affidavit in respect of building height and construction in stilt parking area after release of connections in the building. Arguments were heard and matter was reserved for orders.

The main issue in the present case is that whether the connection can be released to the complainant or not.

In the present case, the respondent has released the connection to the complainant in 2020 after depositing the completion certificate in 2020. After releasing the connections by the respondent in the year 2020 the complainant started construction in the stilt parking upto 60% and one dwelling unit was constructed in the parking area and the connection was granted to complainant upto third floor which is upto 15 meters as per certificate filed by the complainant. The Fourth floor is fifth floor because of upper ground floor.

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And the fourth floor was constructed later on in the year 2020-2021 after releasing the connection by respondent. So, as per the inspection report dated 25.07.2022, the respondent has inspected the premises and file a report before the Forum that now the building height is 18.20 meters without stilt parking and building structure is G + UGF + 4. One flat/swelling unit exist at ground floor and more than 60% area is occupied by flat/dwelling unit at ground floor.

Delhi Fire Service Rules, 2010 under Delhi Fire Service Act, 2007 (Delhi Act 2 of 2009) relevant portion is narrated below:-

27. Classes of occupancies likely to cause a risk of fire. Occupancies for the purposes of sub-section

(1) of section 25 of the Act shall be construed to likely cause a risk of fire, namely:-

(1) Pandal having seating capacity more than 50 persons or covered area more than 50 square meters.

(2) Residential buildings (other than hotels and guest houses) having height more than 15 meters or having ground plus four upper stories including mezzanine floor.

(3) Hotels and guest houses having height more than 12 meters having ground plus three upper stories including mezzanine floor.

(4) Educational buildings having height more than 9 meters or having ground plus two upper stories including mezzanine floor.

(5) Institutional buildings having height more than 9 meters or having ground plus two upper stories including mezzanine floor.

(6) All Assembly buildings.

(7) Business buildings having height more than 15 meters or having ground plus four upper stories including mezzanine floor.

(8) Mercantile buildings having height more than 9 meters or having ground plus two upper stories including mezzanine floor.

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(9) Industrial buildings having covered area on all floors more than 250 square meters.

(10) Storage buildings having covered area on all floors more than 250 square meters.

M S Azra Vs. State Govt. of NCT and ors. WP (C) 2453/2019 order dated 06.02.2020. The complainant filed a writ petition to get the electricity connection on the second floor, premises no. 3418, Gali Maliyaan, Bazar Daryaganj, Delhi. Connection was rejected by the respondent 2 & 3 because of the building height is more than 15 metres. Fire clearance certificate is required. Hon'ble High Court opined that "it is not possible for this court to direct respondent 2 & 3 to grant the electricity connection in the absence of Fire Clearance Certificate and no dues."

In the High Court of Delhi in the matter of Vikas Singh Vs. Lieutenant Governor and Others in W.P. (c) 1476/2014 date of decision 20.01.2016, which is reproduced as under:-

As per Rule 27 (2) of the Delhi Fire Services Rules, 2010 on the ground of the same being not in consonance with the amendment vide Notification dated 23.09.2013 of the Master Plan for Delhi (MPD)-2021.

The petition came up first before this Court on 07th March 2014, when the counsel for the respondents No. 1 to 3 i.e. Lieutenant Governor of Delhi, Govt of NCT of Delhi (GNCTD) and Director, Delhi Fire Services (DFS), GNCTD appearing on advance notice was directed to file an affidavit indicating the position with regard to fire safety clearance of buildings upto 15 metres in height and beyond 15 metres in height. It was further directed that the said affidavit shall also indicate, as to whether there is need for changing the cap of 15 metres as stipulated in Rule 27 (2) supra, on account of change in the Master Plan whereby the maximum height for residential buildings with stilt parking has been increased to 17.5 metres from the erstwhile limit of 15 metres.

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According to Delhi Development Act 1957, bye-laws 2.58 whereof defines "Parking Space" as an area enclosed or unenclosed, covered or open, sufficient in size to park vehicles, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of the vehicles.

Appendix J whereof containing "Relevant Extracts from MPD-2021 regarding Development Control Regulations" provides the maximum height of constructions of residential plotted development, of 15 metres and further provides that if the building is constructed with stilt area of non-habitable height (less than 2.4 metres), used for parking, such stilt area shall not be included in FAR but would be counted towards the height of the building.

Bye-laws 6.2.4.1 of the Building bye-laws.....has demonstrated that the building plan for such multi-storied/special buildings has to show inter alia the location and size of fire lift, smoke exhauster system, access to fire appliances/vehicles with details of vehicular turning circle and clear motorable access way around the building etc.

Bye-laws (vi) (iii) that the Section 32 thereof requires only the "multi-storied buildings" to be governed by the provisions for the fire prevention and fire safety measures stipulated therein.

As per the site visit report submitted by the respondent it shows that the building is from Ground floor till 4th floor with half stilt parking and the height of building is 18.20 meters. Therefore, the below mentioned sixth amendment of DER is not applicable in the present case.

The notification of DER vide no. F.17(85)/Engg./DERC/2016-17/5403/487 dated 31.05.2019 it is clarified that the distribution licensee for release of

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electricity connection shall not insist for fire clearance certificate for the residential buildings having height upto 15 meters without stilt parking and 17.5 meters with stilt parking. The measurement of the height of the building shall be made in accordance with clause 1.4.16 and 7.19 of Unified Building Bye-Laws for Delhi 2016.

As per DERC (Sixth Amendment) order, 2021 dated 15.04.2021:

2.0(3) In case of residential buildings, for release of electricity connection the Distribution Licensee shall not insist for Fire Clearance Certificate for the residential building having height up to 15 meters without stilt parking and up to 17.5 meters with stilt parking.

We are of considered opinion after seeing all the facts of the case, it seems that the complainant has constructed the fourth floor later on so the building height has been increased upto 18.20 meters and stilt parking is also encroached as per the respondent inspection. So, we direct the respondent,

1. On the basis of the record submitted before the Forum, respondent is directed to release the connections to the complainant on filing the Building Completion Certificate from EDMC/fire clearance certificate and after fulfilling all the commercial formalities as per DERC Guidelines 2017.

The case is disposed off as above.

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


(NISHAT AHMAD ALVI)
MEMBER (CRM)


(VINAY SINGH)
MEMBER (LAW)