



Complaint No. CG. No. -72/2025

TABASUM
Vs
BSES YAMUNA POWER LIMITED (D) LAXMI NAGAR

ORDER SHEET

Date : 21.07.2025

This application has been filed by Respondent no-1, BSES Yamuna Power Limited under Order 1 Rule 10 of the Code of Civil Procedure 1908, in case where Consumer's property is booked by MCD either due to unauthorised construction or BCC given by consumer requires verification from the MCD or there are several same address in the locality resembling the booked property.

It is submitted by the Applicant BSES that only MCD can ascertain that consumer's property is booked due to unauthorised constructions or Completion Certificate is genuine or fake, or which premises of same number is booked by MCD, being necessary part should be impleaded as Respondent No-2.

Complainant has submitted that as per DERC (Guidelines for establishment of the Forum and the Ombudsman for redressal of grievances of Electricity Consumers) Regulations, 2024 procedure prescribed for the redressal of the grievances is Summary Procedure. The Forum shall not be bound to follow the procedure prescribed in the code of Civil Procedure, 1908. Without impleading MCD as party or respondent, grievances can be redressed. As per above Regulations, there is a specific provision to summon any employee or any suitable person or agency to inspect the site and submit the report. The Forum can also call for the records, since the procedure prescribed is summary procedure only and procedure of fair play and natural justice is required from the Forum. By impleading MCD as necessary party it will complicate the procedure especially in this condition where the Forum is expected to dispose of grievances in 60 days.

Heard the Arguments, perused the law and rulings filed by both the parties.

The applicant BSES Yamuna Power Limited submission, in brief, is that in the case of new electricity connection of the consumer, where building is booked by MCD, on account of unauthorised construction, as per law BSES cannot grant new connection in view of the DERC (Supply Code and Performance Standards) Regulations 2017 and many pronouncement of Hon'ble High Court and Hon'ble Supreme Court. In many cases there are dispute that BCC filed by consumers are false, it require NOC from the MCD or there are so many cases where the building number which is booked by MCD, have so many same numbers in the same locality. Therefore application under Order 1 Rule 10 of the Code of Civil Procedure, 1908 has been moved by applicant to make MCD necessary party.

Regarding the unauthorised construction position is established by Regulation 18 of the Regulations and Schedule of Charges and the Procedure (Sixth Amendment) Order, 2021 dated 15.04.2021 ["Amendment Order"], issued by Delhi Electricity Regulatory Commission under Regulations 84 and 87 of the Regulations. In the said Amendment Order, Annexure-I of the Principal Order dated 31.08.2017, which contains the format for application form of a new connection, has been amended. Pursuant thereto, the declaration to be given by the applicant, along with the application form, must contain the following clause:-

"5. that the building has been constructed as per prevalent building Bye-laws and the fire clearance certificate, if required, is available with the applicant."

Delhi Electricity Regulatory Commission, in Regulation 11 (2) (iv) The Licensee shall not sanction the load, if upon inspection, the Licensee finds that

a. the information as furnished in the application is at variance to the actual position, or b. the installation is defective or

c. the energisation 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.

Division Bench of Hon'ble Delhi High Court in writ petition by order dated 20.12.2017 in W. P. (c) 111236/2017 in matter of Parivartan Foundation vs. South Delhi Municipal Corporation and Ors. Held as follows:

3. "The BSES Rajdhani Power 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."

Therefore, it is clear that BSES cannot sanction new electricity connection where the premises/building on account of unauthorised construction is booked by MCD.



Now question is in such case of unauthorised construction MCD is necessary party which is required to impleaded as a party or report or NOC from MCD will solve the problem.

Two cases of Hon'ble High Court of Delhi have been quoted by BSES one is writ petition no. W.P. (C) 7619/2023 in the case titled as BSES Yamuna Power Limited Vs Gurvinder Kaur & Anr. where on the application of consumer MCD was made party and second one is W.P. (C) 4559/2024 in the name of Mr. Razi Ahmad Khan Vs BSES Yamuna Power Limited In which NOC from MCD was required by Hon'ble High Court of Delhi. Both the cases are writ petitions.

In case of Tractor & Farm Equipments Limited Vs Secretary of Govt of Assam department Agri AIR 2004 GAU 74. Hon'ble High Court held that powers of writ court as to addition of parties are wider than in Civil Suit.

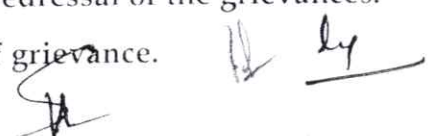
In the matter of Ramesh Hira Chand Kundan Mittal Mal Vs. Municipal Corporation of Greater Bombay AIR (1992), "What makes a person a necessary party is not merely that he has relevant evidence to give on some questions involved: that would only make him a necessary witness. It is not merely that he has an interest in the connection solution of some question involved and has thought of relevant arguments to advance. The only reason which makes it necessary to make a person a party to an action is so that he should be bound by the result of the action and the question to be settled, therefore, must be a question in the action which cannot be effectually and completely settled unless he is a party. The line has been drawn on a wider construction of the rule between the direct interest or the legal interest and commercial interest. It is, therefore, necessary that the person must be directly or legally interested in the action in the answer, that is, he can say that the litigation may lead to a result which will affect him legally that is by curtailing his legal rights.

Consumer Grievance Redressal Forum is governed by procedure prescribed by Delhi Electricity Regulatory Commission (Guidelines for establishment of the Forum and the Ombudsman for redressal of grievances of Electricity Consumers) Regulations, 2024,

Regulation, 27: Jurisdiction of the Forum:- The Forum shall have the jurisdiction to entertain the grievances filed by the Consumer with respect to the services provided by the Licensee in its area of supply and give such orders and directions as may be deemed necessary.

"Grievances has been mentioned in Regulation 2 (i) of the above regulations. Regulation 31 provides procedure to be adopted by the Forum for the redressal of the grievances.

It has given time bound procedure for redressal of grievance.



Regulation 31 (K) principles to be followed by the Forum in disposal of the grievance -The Forum shall not be bound to follow the procedure prescribed in the Code of Civil Procedure, 1908 (5 of 1908) and, subject to these Regulations, the Forum may evolve procedure conforming to the principles of fair play and natural justice.

Regulation 32 specifically provides power to "The Forum may call any officer/ any record or information of the Licencee or from the Consumer, relevant for examination and disposal of the grievance. The Forum may undertake to inspect the site by itself or direct any of its employee or any other suitable person or agency to inspect the site and submit a report."

On behalf of consumer several orders of the PLA and CGRF has been filed which shows that the PLA or CGRF has ordered only to submit NOC/report from MCD. In our opinion since there is specific provision in Delhi Electricity Regulatory Commission (Guidelines for establishment of the Forum and the Ombudsman for redressal of grievances of Electricity Consumers) Regulations, 2024 to summon or call record from MCD, therefore, MCD is not necessary party, to be impleaded as respondent.

Since there are many cases involving MCD bookings, the following directions are issued. OP, BSES YPL will set up a system to issue notices at two stages to MCD.


1st Stage: - At the time of receipt of application for new connection from the complainant and issuing deficiency intimation to the complainant, OP should also correspond with MCD asking for status of the booking and the delivery of said letter should be recorded.


2nd Stage: - When the consumer files complaint before ICGRC, ICGRF should take reference of previous one and issue a second notice to MCD for booking status.

If any reply is received, it should be mentioned in reply before CGRF. If no reply is received, CGRF may summon MCD records with concerned official to clarify the situation. Nodal Officer has to coordinate all correspondence/notices/summon to MCD and the reply from MCD.

If reply is received from MCD, CGRF will take it in cognizance, otherwise CGRF may take a view as deemed fit.

In view of the above, application is rejected.


(P.K. AGRAWAL)
MEMBER (LEGAL)


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


(P.K. SINGH)
CHAIRMAN