

C A No. Applied for
Complaint No. 509/2024

In the matter of:

Tanuja Chauhan KashyapComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

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

Appearance:

1. Ms. Sakshi Sharma, Counsel of the complainant
2. Mr. Akash Swami, Mr. Lalit, Ms. Chhavi Rani & Mr. Akshat Aggarwal, On behalf of BYPL

ORDER

Date of Hearing: 16th January, 2025

Date of Order: 20th January, 2025

Order Pronounced By:- Mr. S.R. Khan, Member (Technical)

1. The brief fact of the case giving rise to this grievance is that the complainant applied for a new electricity connection at premises no. 2100, 4th Floor, Chah Indra, DR HC Sen Road, Baghirath Place, Delhi-110006, vide request no. 8007122678. The application of complainant was rejected by Opposite Party (OP) BYPL on the pretext of MCD Objection Exist (U/C-2101-2102) Architect Certificate for height of building more than 15 meters (Applied at 4th floor).

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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 fourth floor of the property bearing no. 2100, Chah Indra, DR HC Sen Road, Baghirath Place, Delhi-110006, vide request no. 8007122678. The application of the new connection was rejected on following grounds Firstly; applied address found in MCD Objection list circulated to BSES vides letter no. EE(B)-II/City-S.P. Zone/2019 dated 18.09.2019 at Serial No. 40.


Secondly; Building structure consists of Ground+ Four Floors over it, building height is more than 15 meters as such fire clearance certificate or Building completion certificate in lieu thereof is required.

Thirdly; Title documents filed by the complainant is inconsistent and invalid.

That upon inspection of the said premises, it was discovered that building no. 2099 to 2102 are joint building and building structure ground plus four floors over it and building is fully commercial. The title documents filed by the complainant are invalid and inconsistent as the applied floor is fourth floor but the title documents pertain at the third floor. Hence a clear violation of Regulation 10.

3. Counsel for the complainant in its rejoinder refuted the contentions of the respondent as averred in their reply and submitted that the respondent has already provided electricity connections to the consumers who had applied for new connections in 2024. Rejoinder further stated that in the year 2018 respondent had rejected the new connection application on the point of MCD booking before 2018 but after sometime on court orders new connections were provided to the consumers.

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4. Heard arguments of both the parties at length.
5. The main issue is whether the new connection can be released, to the complainant where the complainant has applied for new connection under commercial category in a commercial building and height of building is more than 15 meters and building is booked by MCD. Can the complainant be given benefit of sixth amendment?
6. We have gone through the submissions made by both the parties. From the narration of the facts and material placed before us we find that the complainant applied for new electricity connection under commercial category on the fourth floor of premises no. 2100, Chah Indra DR HR Sen Road, Bhagirath Place, Delhi-110006, which was rejected by OP on pretext of MCD booking and building height more than 15 meters. The complainant in rejoinder stated that OP has released many connections in the subject property in the year 2024 and after some court orders also, but the complainant has not placed on record any documentary proof in support of her claim. Regarding the MCD booking, the complainant stated that her premises address is 2100 and as per OP premises no. 2099 to 2102 is joint property. Building status ground plus four and full building commercial.
7. As far as legal position is concerned according to DERC (Sixth Amendment) order, 2021 dated 15.04.2021:2.0 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.

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4(1) In case of total height of such building is more than 15 meters without stilt parking and more than 17.5 with stilt parking, the distribution licensee shall:

- i. Release the electricity connection in the dwelling units which are within the height of 15 meters without stilt parking and within the height of 17.5 meters with stilt parking of the building, without insisting for Fire Clearance Certificate;
- ii. In the dwelling units which are above the height of 15 meters without stilt parking and which are above the height of 17.5 meters with stilt parking of the building, the electricity connection shall not be provided unless the fire clearance certificate has been obtained:

Provided that in case such dwelling units above 15 meters without stilt parking and above 17.5 meters with stilt parking of the building indulge in unauthorized connection from the system of licensee or from the live connection of any other consumer, the licensee may initiate an action as per provisions of Section 126, Section 135, Section 138 or any other section as may be applicable of the Electricity Act, 2003 and the electricity connection of such consumer who has provided the supply unauthorisedly, shall be disconnected immediately;

8. Thus as per this amendment if the height of the building is more than 15 meters, connection can be released if the height of the applied unit is within 15 meters without stilt parking and 17.5 meters with stilt parking. But this concession is available only to the dwelling units. In the present case of the complainant has applied for commercial connection, therefore, he is not entitled for the benefit of this amendment.

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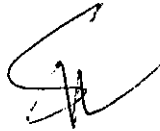
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9. The complainant has emphasized on the fundamental rights for claiming electricity connection. However, Hon'ble Delhi High Court in case of Parivartan Foundation V/s South Delhi Municipal Corporation & Others W.P. (c) 11236/2017 dated 20.12.2017 has laid down that; (3) 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.

(4) 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.

10. Regarding the MCD booking, the booking is done on 18.07.2019 for unauthorized construction at ground floor and first floor with projection on Mpl land of property bearing no. 2101-2102, Chah Indra, Chandni Chowk, Delhi-110006, whereas the complainant has applied for new electricity connection on property bearing no. 2100, Chah Indra, Chandni Chowk, Delhi-110006. OP has contended that it's a joint property from 2099 till 2102, but has not placed any proof in this regard. We perused the registered sale deed placed on record; the said document is only for one floor in property no. 2100, Chah Indra, Chandni Chowk, Delhi-110006. The said sale deed nowhere shows that it is joint property.

11. In the facts and circumstances we are of considered view that complainant cannot be allowed to new connection under commercial category unless and until a fire clearance certificate and BCC from MCD are obtained.



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ORDER

The complaint is rejected. OP has rightly rejected the application of the complainant of the new connection. This forum is unable to give my relief to his complainant.

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

on leave

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

(P.K.SINGH)
CHAIRMAN

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