

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

Phone: 32978140 Fax: 22384886

E-mail:cgrfbypl@hotmail.com

SECY/CHN 015/08NKS

C A No. Applied For Complaint No. 12/2021

In the matter of:

Babita RastogiComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

1. Mr. Arun P Singh (Chairman)
2. Mrs. Vinay Singh, Member (Legal)
3. Dr. Harshali Kaur, Member (CRM)

Appearance:

1. Mr. Aslam Parvez, Counsel for the complainant
2. Mr. Imran Siddiqi, On behalf of BYPL

ORDER

Date of Hearing: 12th March, 2021

Date of Order: 18th March, 2021

Order Pronounced by:- Mrs. Vinay Singh, Member (Legal)

Briefly stated facts of the case are that the complainant applied for new connections, but the respondent company rejected her applications for new connection.

It is also her submission that she is residing at 153-A, Mohalla Garhi, Shahdara, Delhi and applied for new connections vide request no. 8004505717, 8004505713, 8004505732, 8004605739 and 8004505744. She further submitted that the respondent did site visit at her above said premises and rejected her

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application for new connection as there is a pole inside the premises. Therefore, she requested the Forum to direct the respondent company for immediate release of the new connections.

Notices were issued to both the parties to appear before Forum on 05.02.2021.

On the hearing the respondent filed their reply and raised objection that pole is touching the building. Respondent was directed to re-consider the case again and file additional reply in light of CEA's safety Regulations 60 (iii).

The respondent company submitted their reply submitted therein that complainant had applied for new electricity connection at H.No. 153A, Mohalla Garhi, Shahdara, Delhi for domestic purpose. Respondent further added that on inspection dated 07.09.2020, it was found that the pole is touching the applicant premises as such the deficiency letter dated 08.09.2020 was issued wherein the complainant was informed that "in proper clearance and encroachment" hence the release of new electricity connection is not possible.

Respondent further added that they cannot provide the electricity connections as per the directions issued by the Dy. Secretary (Power), department of Power, Government of NCT of Delhi vide its Order dated 18.01.2017, bearing no. F.11(17)/2014/Power/91.

Regulation 61 of Central Electricity Authority (Measures relating to Safety & Electric Supply) Regulations, 2010, provides for distance both vertical and horizontal to be maintained from the highest/nearest point of the building. The relevant provision of the Regulations 61 is quoted herein below:

61 Clearances from buildings of lines of voltage exceeding 650V: (1) An overhead line shall not cross over an existing building as far as possible and no building shall be constructed under an existing overhead line.

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(2) Where an overhead line of voltage exceeding 650 V passes above or adjacent to any building or part of the building it shall have on the basis of maximum sag a vertical clearance above the highest part of the building immediately under such line, of not less than:-

(i) For lines of voltages exceeding 650 Volts Upto and including 33,000 volts	3.7 meters
(ii) For lines of voltages exceeding 33 KV	3.7 meters plus 0.30 meter for ever additional 33,000 volts or part thereof.

(3) The horizontal clearance between the nearest conductor and any part of such building shall, on the basis of maximum deflection due to wind pressure be not less than:-

(i) For lines of voltages exceeding 650 Volts Upto and including 11,000 volts	1.2 meters
(ii) For lines of voltages exceeding 11, 000 V And upto and including 33, 000 V	2.0 meters
(iii) for lines of voltages exceeding 33 KV	2.0 meters plus 0.3 meter for every additional 33,000 volts or part thereof.

The matter was again heard on 12.02.2021, when the complainant was directed to file EDMC certificate, if possible. Respondent was directed to hold joint inspection to see that there is no illegal encroachment on the part of the complainant and if the connection is granted it will not violate any law.

Respondent vide their mail dated 04.03.2021, submitted that complainant visited the office of the respondent but could not ascertain whether the construction at the said preemies is illegal or not.

On hearing dated 05.03.2021, Forum directed that joint inspection should be conducted on 08.03.2021 at 2.00 PM, and the complainant was further advised to submit one undertaking that there is no illegal construction in her premises.

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Respondent submitted joint inspection report vide their mail dated 09.03.2021, in which it was stated that 'pole touches the applied premises' and complainant submits that there is no illegal construction and encroachment.

The matter was finally heard on 12.03.2021, when respondent filed joint inspection report dated 08.03.2021 as advised by the Forum. Counsel of the complainant contradicted regarding joint inspection report, but the complainant admitted the joint inspection has already been conducted. Both the parties were directed to file written submissions or any additional documents within three working days. Arguments were heard and matter was reserved for orders.

The respondent vide their mail dated 17.03.2021, reiterated their original reply and submitted that as per DERC order dated 31.08.2017, in respect of Schedule of Charges and the Procedure under DERC (Supply code and Performance Standards) Regulations, 2017, in Annexure-I provided the application form for new connection which was later amended on 04.07.2018. The applicant has to provide a declaration and undertaking that the building Bye-Laws. It is also submitted Order dated 18.01.2006 in W.P. (c) 4582 of 2003 Kalyan Sansthan Social Welfare Organization Vs Union of India & Ors. The Delhi High Court directed MCD to send information to DJB, NDPL ad BSES so that basic facilities are not provided to the unauthorized properties.

The main issue in the complaint is whether the connections to the complainant can be released, if the pole is touching the building of the complainant or not.

We have gone through the submissions made by both the parties. From the narration of facts and material placed before us we find that when the

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complainant lodged the complaint before CGRF, the respondent rejected her applications for new connection on pretext of "improper clearance or encroachment" and pole is touching the building. But as per the rule of CEA 2010 which is reproduced here,

As per Central Electricity Authority Supply Regulation 2010, Section 60 (3) Any conductor so situated as to have a clearance less than that specified above shall be adequately insulated and shall be attached at suitable intervals to a bare earthed bearer wire having a breaking strength of not less than 35 kg.

60. Clearance from buildings of lines of voltage and service lines not exceeding 650 volts.-(1) An overhead line shall not cross over an existing building as far as possible and no building shall be constructed under an existing overhead line.

(2) Where an overhead line of voltage not exceeding 650 V passes above or adjacent to or terminates on any building, the following minimum clearances from any accessible point, on the basis of maximum sag, shall be observed, namely:-

- (i) for any flat roof, open balcony, verandah roof and lean to roof -
 - (a) when the line passes above the building a vertical clearance of 2.5 meters from the highest point, and
 - (b) when the line passes adjacent to the building a horizontal clearance of 1.2 meters from the nearest point, and
- (ii) for pitched roof-
 - (a) When the line passes above the building a vertical clearance of 2.5 meters immediately under the line, and
 - (b) When the line passes adjacent to the building a horizontal clearance of 1.2 meters.

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- (3) Any conductor so situated as to have a clearance less than that specified above shall be adequately insulated and shall be attached at suitable intervals to a bare earthed bearer wire having a breaking strength of not less than 35 kg.
- (4) The horizontal clearance shall be measured when the line is at a maximum deflection from the vertical due to wind pressure.
- (5) Vertical and horizontal clearances shall be as specified in Schedule X.

The condition of wire and service cable are very shabby and it can cause danger to human being, animal and property as decided by Hon'ble High Court in Om Prakash v/s Govt of NCT and others (BYPL) and other by justice Sh. V.K. Jain in the year 2013 regarding Regulations 16 of central electricity authority measure related safety and security act 2010 "to the extent it's relevant require of supplier of electricity to provide and maintain on consumer premises suitable earthen and terminal in an accessible position or near point of commencement of supply regulators, section 12 of the Regulation to the extent it's relevant provides that all' the electric lines and apparatus shall be constructed, maintained in such manner as to ensure safety of human being, animal and property.

Again in Hon'ble Delhi High court in case Kimti Lal Rahi v/s union of India and other (49)1993 dlt56 "it's well settled law that one who claim equity must do equity estoppel spring from the equity doctrine "the picture of the building filed by respondent wire and service cable hazardous to the life of human being, animal and property it's duty of respondent to maintain and provide a connection as per law relating to safety and security and maintain them.

The Forum has also asked for the undertaking from the complainant. The complainant stated that she would not do any further construction and would not violate any law. It seems that the pole is quite far from the back portion of the building and it is not encroached but the wires of BYPL are in very shabby condition and life threatening.

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This property is not in violation of any law/the property is not booked by EDMC. Complainant is ready to give undertaking in this regard. The complainant has not violated any law while constructed the building and if it is unauthorized construction then EDMC has full right to book this property under unauthorized construction.

It also seems that there is no encroachment on the part of the complainant till the pole which is in accordance to CEA Guidelines 2010, 60(3) narrated above.

We are of considered opinion, that the additional reply filed by the respondent vide mail dated 17.03.2021, raising the objection of unauthorized construction but this property is not booked by EDMC under unauthorized construction. The respondent did not produce any document regarding unauthorized construction and EDMC booking. And this objection is freshly raised by the respondent to harass the complainant, because it was not mentioned in the deficiency letter of the respondent when the complainant applied for new connection. So, there is no unauthorized construction and does not violate any law.

After going through all the proceedings we are of the considered opinion that the connection can be granted to the complainant. As per also CEA Rule 60 narrated above, the complainant has sufficient distance from the pole.

In the matter of Saifuddin Vs CESC limited, 27 H 29 Calcutta High Court. The Court is of opinion that electricity is the basic necessity.

In the matter of Durga Rani Singh Vs WBSDCL, 9 May 2016 Calcutta High Court, "A person is settled occupier of any premises is entitled to get electricity connection. The right to get electricity is considered as an extended

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The Forum directs the respondent

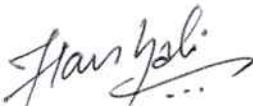
- The respondent is directed to release the connection, after fulfilling all the commercial formalities as per DERC Guidelines 2017.
- The complainant is directed to file an undertaking before releasing the connection that he will not violate any law or not extend the building till the pole. It should be kept as it is.
- Respondent is free to take action, if the complainant violates any law.
- The respondent is also directed to properly maintain the wires/cover the wires which are in shabby manner as shown in the photographs submitted before the Forum.

The case is disposed off as above.

No order as to the cost. A copy of this order be sent to both the parties and file be consigned to record room thereafter.

The order is issued under the seal of CGRF.

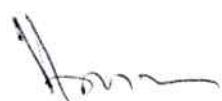
The compliance should be reported within 30 days. The order is issued under the seal of Consumer Grievance Redressal Forum (BYPL).



(HARSHALI KAUR)
MEMBER (CRM)



(VINAY SINGH)
MEMBER (LAW)



(ARUN P SINGH)
CHAIRMAN

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