

OFFICE OF THE ELECTRICITY OMBUDSMAN

(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act of 2003)

B-53, Paschimi Marg, Vasant Vihar, New Delhi-110057

(Phone-cum-Fax No.: 011-41009285)

Appeal No. 01/2021

(Against the CGRF-BYPL's order dated 07.12.2020 in Complaint No. 64/2020)

IN THE MATTER OF

SMT. ISHRAT

Vs.

BSES Yamuna Power Limited

Present:

Appellant: Shri Shakeel Ahamad, Authorized Representative

Respondent: Shri K. Jagatheesh, Sr. Manager, Shri Imran Siddiqi,
Manager (Legal) and Ms. Ritu Gupta, Advocate, on behalf
of BYPL

Date of Hearing: 25.03.2021

Date of Order: 31.03.2021

ORDER

1. The appeal No. 1/2021 has been filed by Smt. Ishrat, against the order of the Forum (CGRF-BYPL) dated 07.12.2020 passed in Complaint No. 64/2020. The issue concerned in the Appellant's grievance is regarding non-release of the new electricity connection by the Discom (Respondent) in respect of her property bearing No. H. No. 648, Gali No. 26, Jafarabad, Delhi - 110053, mainly on account of the fact that the height of the building is more than 15 meters.

2. In the instant appeal, the Appellant has stated that she had applied for a new electricity connection under domestic category at her premises on 14.08.2018 against which the demand-note was issued by the Discom after inspection of the site. The demand-note was duly paid by her on 18.08.2018



and thereafter the officials of the Discom visited her premises on 25.08.2018 for installation of the meter but returned back without installing the same. She further stated that she made various visits to the office of the Discom for release of the connection but they did not release the electricity connection.

3. The Appellant then approached the CGRF and prayed for directing the Discom to release the connection at the earliest. The plea and prayer of the Appellant for release of the new electricity connection, however, was rejected by the CGRF on the basis that the height of the building is more than 15 meters. The CGRF although opined that there is deficiency of the services on the part of the Discom since after the issue of demand-note they delayed the release of connection at the premises of the Appellant during which period the new DERC guidelines came into force and the Discom was barred to release the connection at the premises of the Appellant on account of height of the building more than 15 meters. The CGRF further ordered that as the demand-note was already paid by the Appellant on 18.08.2018, therefore, the Discom is liable to pay the compensation as per the Schedule-I of the "Guaranteed Standards of Performance and Compensation to Consumers" in case of default. The CGRF disposed of the case with the following order:

- (i) The Discom is directed to refund the security amount of Rs.4,100/- along with other charges with interest at prevailing bank interest rate.
- (ii) To pay compensation as per Schedule (1) (1) (i) from the date of deposition of Demand Note till the date of final order.

4. Aggrieved with the order of the CGRF, the Appellant has preferred this appeal praying that she is not interested in the compensation as ordered by the CGRF and prayed to pass the appropriate direction to the Discom to release the connection since the delay in release of connection after the deposition of demand-note by her was on the part of the Discom. She further pleaded that as a couple of connections have been released in the said building during the same period in 2018 by the Discom, therefore, the denial of the electricity connection to her house on account of the delay on the part of the Discom is inappropriate and illegal.



5. The Discom in its reply submitted that the Appellant applied for a new connection on 20.07.2018 in respect of her property bearing No. 648, Khasra No. 22, Gali No. 26, Jafrabad, Near Kamla Nursing Home, Delhi - 110053. The said property is divided into two portions, one of 64 sq. yds. having ground plus four floors and another of 24 Sq. Yrds. having ground plus five floors. However, it is pertinent to mention here that both the portions bear the same address. The Discom further submitted that as required under the Regulations, the site inspection was carried out by their field staff in the presence of the representative of the Appellant at first portion of the building measuring 64 sq. yards. After the technical feasibility was found OK, the demand-note was generated and the Appellant made the payment as per the demand-note on 18.08.2018. But when their officials went for installation of the meter, the Appellant insisted to install the meter at some other place in the second portion of the building measuring 24 sq. yards, where there was no ELCB (Earth Leakage Circuit Breaker) and as such the officials left the site without installation of the meter. The matter was investigated by the officials of the Discom and it was decided that the meter cannot be installed on the second portion of the building since the height of the building is more than 15 meters and ELCB is also not installed at the new site. The Discom further submitted that in view of above, the demand-note generated was cancelled with the remarks "ELCB not installed at the new site".

Thereafter, the Appellant again approached the Discom on 12.03.2019 for installation of the meter against the same request number and accordingly second device installation order (DIO) was generated, which was also cancelled later on account of height of the building being more than 15 meters. As such, the Discom contended that the delay in installation of the meter against the demand-note generated in August, 2018 was solely on account of the Appellant as she insisted to install the meter at a place different from the place where technical feasibility was carried out and the sticker was pasted by them initially during the site inspection. The Discom further submitted that the site was again visited by them on 26.11.2020, during the pendency of the case before the CGRF, in the presence of Shri Sadik, the son of the Appellant and it was found that the Plot No. 648 is divided into two parts and is two sides open. The first portion of the building is 64 sq. yards having ground plus four floors and the other portion measures 24 sq. yards having ground plus five floors. There were six electricity connections installed in the first portion whereas two connections were found to be installed in the second portion of the building. It was also



noted that both the buildings are owned by the one and the same owner and both the buildings have the common roof with entry from the side of first portion of the building having ground plus four floors. Further, the building height was measured and found to be 59 feet and 10 inches which is more than 18 meters.

In view of the above, the Discom submitted that it is evidently clear that there is no deficiency on the part of the Discom as the meter against the demand-note could not be installed solely on account of the acts and deeds of the Appellant. Hence, it is apparent that the order of the CGRF suffers from no infirmity and need not be set-aside and further in view of the Regulations, the connection to the Appellant cannot be released as the height of the building is more than 15 meters.

6. After going through the material on record and hearing the arguments of both the parties at length, the basic issue which emerges is that the Discom refused to release the new electricity connection to the Appellant basically on the ground that the height of the building is more than 15 meters and the Appellant has failed to produce the required 'Fire Clearance Certificate' from the Fire Department as per the extant regulation. However, it is observed that in the first instance, the Discom failed to install the meter at the premises of the Appellant even after the payment of demand-note charges by her on 18.08.2018. The main reason raised by the Discom for not installing the meter on 25.08.2018 is that the Appellant wanted to get the meter installed at a place which was different than the place where they pasted their sticker for installation of the new meter, when they visited initially during the site inspection. The Discom also contended that the new place where the Appellant wanted them to install the meter was also not having the ELCB, which is mandatory for installation of the meter and release of the electricity connection. It is pertinent to mention here that the Discom, however, could not produce any documentary proof regarding the same. The objection of non-installation of the ELCB at the site, as raised by the Discom, seems to be an afterthought and the same should have been raised by them at the time of initial site inspection instead of at the time of installation of the meter.

It is further observed that when the Appellant approached the Discom again in March, 2019, for installation of the meter, the request was rejected by them on account of height of the building being more than 15 meters. However, on the issue raised by the Appellant that the Discom have released two



electricity connections in the year 2018 in the same building itself, the Discom during the course of hearing submitted that the process of physical measurement of the height of the building was started by them w.e.f. November, 2018, in terms of the policy of the company based on the directions of the Hon'ble Division Bench passed in "Parivartan Foundation vs South Delhi Municipal Corporation and Ors" WP(C) No. 11236/2017 vide order dated 20.12.2017. They also confirmed that in view of the above directions, the actual measurement of the height is being carried out by them for release of electricity connection, which is also in accordance with the clarification order dated 31.05.2019 issued by DERC regarding relaxation of the height from existing 15 meters to 17.5 meters for the premises having stilt parking in conformity with the requirement of Uniform Building Bye-Laws 2016 of Delhi.

The Discom vide their additional submission dated 30.03.2021 confirmed that in view of various judgments with regards to unauthorized construction they have adopted this practice of measuring the actual height of the building from November, 2018 onwards as the issue of electrification of unauthorized buildings was taken into consideration by Hon'ble High Court during this time. However, prior to November, 2018 they used to rely on the undertaking/declaration given by the applicant with regards to the height of the building. The additional submissions dated 30.03.2021 were taken on record.

7. It is further observed that during the pendency of the matter before the CGRF, the site was revisited by the Discom in the presence of the son of the Appellant and found that the height of the building where the connection was to be installed is more than 18 meters. In view of the measurement of the height of the building, it is held that since the height of the building is more than 15 meters without stilt parking, hence the electricity connection cannot be released as per the extant regulations. Further the argument of the Appellant, that her connection should also be released since the Discom has released few connections in the same building in the year 2018, cannot be considered in view of the policy of the Discom adopted by them from November, 2018 onwards to measure the actual height of the building instead of releasing the connection merely on the basis of declaration/undertaking by the applicant and since the height in the instant case is more than 15 meters, the connection cannot be released. In addition to above, some other arguments as raised by the Appellant regarding release of electricity connections has no basis and are misconceived, since the issue of release of electricity connections cannot be



decided on any other basis other than the DERC Regulations taken alongwith the existing building bye-laws of Delhi.

However, as far as the contention of the Appellant regarding the non-release of the electricity connection in the initial stage after the deposition of the demand-note amount is concerned, it is observed that the CGRF has rightly concluded that there is certainly a deficiency in the services on the part of the Discom. The Discom had delayed the installation of the meter on the premises of the Appellant on one pretext or the other and thereafter the new guidelines of actual measurement of the height of the building came into force and the Discom was therefore barred to release the connection on account of the height of the building being more than 15 meters. In view of above, the Discom is liable to pay the compensation and refund of the other charges of the demand-note with interest as ordered by the CGRF vide its order dated 07.12.2020.

In the background of the facts and circumstances viz-a-viz the scrutiny of the available documents and against the aforesaid analysis, it is found that there is no substance in the appeal of the Appellant and it is prudently decided that there is no need to interfere with the verdict of the CGRF. The appeal is disposed of accordingly.


(S.C.Vashishta)
Electricity Ombudsman
31.03.2021