

**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. 12/2023**

(Against the CGRF-BRPL's order dated 23.02.2023 in C.G. No. 140/2022)

**IN THE MATTER OF**

**Shri Shammi**

**Vs.**

**BSES Rajdhani Power Limited**

**Present:**

Appellant: Shri Shammi along with Shri Hemant Choudhary, Advocate

Respondent: Shri Saurabh Sharma, DGM (PS), Shri Vikram Narula,  
DGM(B), Shri S Bhattacharjee, Sr. Manager and  
Shri Arav Kapoor, Advocate, on behalf of BRPL

Date of Hearing: 05.07.2023

Date of Order: 06.07.2023

**ORDER**

1. Appeal No. 12/2023 has been filed by Shri Shammi, R/o B-59, Vishwas Park, Uttam Nagar, New Delhi - 110059, against the CGRF-BRPL's order dated 23.02.2023 passed in C.G. No. 140/2022.

2. The instant case is that the Appellant applied for a non-domestic electricity connection on numerous occasions vide Application Nos. 8004997479, 8005287570, 8005465224 & 80056880036 dated 12.07.2021, 15.11.2021, 08.02.2022 & 14.05.2022 respectively, for his shop, as its owner since 2019, situated in the stilt parking of building at 3A & 4B, Khasra No. 33/23 & 33/24/2, Guru Nanak Vihar, Nilothi Extension, Delhi - 110041. Though the Appellant produced the height certificate, test report from the licensed electrical contractor and clarification that there were no dues against the shop, the Respondent did not release the connection.



3. The Respondent, in their reply before the Forum submitted that the building where the Appellant sought a connection for his shop already had five connections released under the 17.5 meters criteria for domestic and for common service usage, considering parking space at the ground as stilt. The building height is more than 15 meters, therefore, the connection was rejected on the basis of DERC's letter no. F.17 (85)/Engg./DERC/2016 -17/ 5403/487 dated 31.05.2019.

Further, on the direction of the Forum, a joint site visit was conducted by the Respondent in the presence of the Appellant. The Respondent reported vide letter dated 12.12.2022 that the height of the building/premises is 15.30 meters from the road level. The Respondent also submitted that there is already a connection for common use in the stilt parking, therefore, a commercial connection cannot be given to the individual.

4. On the basis of the deliberations, site visit report and written submissions, the CGRF ordered that the complainant has sought a commercial connection in the parking space of the residential building and as per DERC's regulations, a commercial connection cannot be given in the residential building/parking. Accordingly, the complainant is not entitled to commercial connection in the stilt parking for the shop.

5. Aggrieved from the order of the CGRF, the Appellant preferred this appeal on the grounds that:

- (a) That the shop is on the ground floor on the right side of building with specification 23' x 7' x 8'.9" (L x W x H) and there is specific parking on the left side. The shop is supported by authorized architect map.
- (b) That Respondent adopted pick and choose policy while giving new connections in the locality.
- (c) That the height of shop is below 15 meters and was existing when the Respondent released the connections to the other occupants of the building.
- (d) That Respondent frequently changed their stand before the forum for non-release of connections, viz; height issue, test report, outstanding dues and stilt parking policy..



(e) That Respondent released the connections in the same area and also near his shop but he has been deprived of the basic amenities for earning his livelihood.

The Appellant prayed as under:

- (i) To set-aside the CGRF's order dated 23.02.2023.
- (ii) To direct the Respondent to release the connection without demanding a fire clearance certificate.
- (iii) To direct the Respondent to conduct an inquiry as to how electricity connections were granted in the same building, while the shop was already existing.
- (iv) To compensate him.
- (v) Any other relief which deemed fit.

6. In rebuttal, the Respondent submitted their reply dated 15.05.2023 stating that the various requests for connections were rejected on the ground that height of building is more than 15 meters and that electricity meter (commercial) cannot be granted in the said premises, as the Appellant had applied for commercial connection in a residential building. Appellant was also informed that as per DERC's guidelines dated 31.05.2019 (referred to in point no. 3 supra), an electricity connection in a residential building with a height of more than 15 meters without stilt parking needs an 'NOC' from Fire Department. Since the premises where the connection is requested is on ground floor of residential building with a height of more than 15 meters, connection was not released due to height issue and treating the ground floor without stilt parking. Vide a deficiency letter dated 30.08.2022, the Appellant was directed to produce 'fire clearance certificate' besides a test report duly signed by a licensed electrical contractor. The fire clearance certificate had not been submitted till date. It has also been mentioned that a commercial connection cannot be provided in stilt parking area of a residential building having a height of more than 15 meters. The Joint Inspection carried out in presence of the Appellant also revealed the building height to be 15.30 meters from road level.

7 The appeal was admitted and taken up for the hearing on 05.07.2023. During the hearing, both the parties were represented by their Authorized Representatives/Counselors. An opportunity was given to both the parties to plead their case at length.

8. During the hearing, the Counsel for the Appellant reasserted his contention as stated in the appeal. The Counsel for the Appellant argued that the respondent had



already installed five domestic connections in the building, while the Discom was demanding a Building Completion Certificate (BCC) from him. It is mixed-use land, and BCC is not mandatory. The Counsel further stated that a number of connections in Nangloi Division were granted to other buildings under similar circumstances by adopting pick and choose policy. Photographs of the alleged site and copies of bills were placed on the record. The Counsel further requested that if a commercial connection is declined on the pretext of "height issue", then a domestic connection can be granted on the basis of undertaking that he will never use it for commercial purposes, so that he may convert the shop into a storeroom.

9. On being asked, what was the status of this particular building, while considering grant of five connections over there, the Counsel for the Respondent replied that the building was considered to be having stilt parking, and the construction can be considered authorized as the same is not booked by MCD. It was further asked if there was a stilt parking, then how connections were granted in 2020 or 2021, as a shop existed there, as is seen in Inspection Reports of released connections. The Respondent could not give any satisfactory reply. It was further asked if the Appellant requests domestic connection whether it will be granted or not for resolving his grievance. Counsel for the Respondent submitted that the Appellant never applied for a domestic connection. The common area connection already existing was meant for parking use, and it is a residential area instead of mixed-use area.

10. Perusal of the record indicates that a notarized GPA in respect of shop was executed out of 100 sq. yards in Khasra No. 33/23 and 33/24/2 situated in village Nilothi (Guru Nanak Vihar, Nilothi Extension) New Delhi - 110041, by Smt. Paramjeet Kaur in favour of Shri Shammi on 10.02.2021, with an Agreement to Sell, Affidavit, payment receipt for Rs.2.00 lakh, Indemnity Bond, will-deed and Special Power of Attorney. The said Smt. Paramjeet Kaur was provided with possession of the Shop through similar documents executed on 28.11.2019 by Shri Chunni Lal Batra, R/o Tilak Nagar, New Delhi - 110018.

11. It is evident that a portion of stilt parking has been converted into a shop of dimension 23' x 7' x 8'.9" (L x W x H) which is against Delhi Master Plan. Delhi Master Plan 2001 allows stilt only for parking. A Committee has been appointed by the Supreme Court which has directed the Civic Body to identify residential building(s) where stilt parking is used illegally for commercial activities. The mixed land use has been permitted by Delhi Development Authority under the Gazette Notification amending Master Plan of Delhi 2001, which allows retail shops(except hazardous, nuisance causing) in residential premises upto a maximum of 25% coverage of ground floor or 50 sq. meter, whichever is less, of floor area, only on the

ground floor. This is not permitted in the stilt parking. For protecting the environment, activities such as retail shops for building material, timber, building products, marble, iron, steel and sand, firewood, coal are not permitted. However, going by the criteria for allowing mixed use, the area does not meet the same since the width of the road is less than nine meter which is laid down for rehabilitation colonies and regularized/unauthorized colonies.


12. The Supreme Court in its decision dated 31.08.2010 in Civil Appeal 2544 of 2010 (Nahalchand Laloochand Pvt. Ltd. Vs. Panchali Co-operative Housing Society Ltd) has categorically held that a stilt parking space or open parking space in the premises of the Society does not come under the definition of garage or a flat. Therefore, such a space cannot be sold at all. It is, therefore, not feasible to convert a part of stilt parking into a shop.

13. The law is also already settled by the High Court of Delhi in the case 'Azra vs State of NCT of Delhi' to the effect that the court cannot be a party to continuing wrong. Release of other connections in the same area cannot therefore be of any avail to the Appellant.

14. It is seen that there is no clarity on procedure to be adopted in cases, where requests for connections are submitted, in a mixed use area in the approved (residential area with shop) or rehabilitation colonies or regularized/unauthorized colonies. CEO of the DISCOM may issue appropriate directions to the functionaries for seeking opinion of the legal department, in such cases. The officers responsible for releasing the connections may also seek opinion from Legal Cell with regard to building bye-laws, 2016 and Master Plan 2021. This would bring transparency, clarity and objectivity in the decision making.

In the light of the above discussion and the directions of DERC, Order of Supreme Court/High Court, this court is of the opinion that the shop is an unauthorised construction in stilt parking and in violation of dictum by the Supreme Court. No commercial activity in stilt parking can be allowed in the light of the law and guidelines on the subject. The order by the CGRF is upheld and no electricity connection for the shop can be released.

The appeal is dismissed as devoid of merit

  
(P. K. Bhardwaj)  
Electricity Ombudsman  
06.07.2023