

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)

IN THE MATTER OF

1. Appeal No. 13/2022

(Against the CGRF-BYPL's order dated 18.04.2022 in Complaint No.36/2022)

Dr. Sualin

2. Appeal No. 14/2022

(Against the CGRF-BYPL's order dated 18.04.2022 in Complaint No.37/2022)

Shri Mohammad Hanif

3. Appeal No. 15/2022

(Against the CGRF-BYPL's order dated 18.04.2022 in Complaint No.34/2022)

Ms. Tabassum

Versus

BSES Yamuna Power Limited

Present:

Appellant(s): Dr. Sualin, Shri Mohd. Hanif and Shri Mohd. Ishtiaq Siddiqi
(Father-in-Law of Ms. Tabassum along with Ms. Shyama and
Ms. Tarannum Khan, Advocates, of the Appellant.

Respondent No. 1: Shri K. Jagatheesh, DGM, Shri Deepak Jain, DGM, Shri
Abhishek Sharma, Business Manager, Ms. Shweta
Chaudhary, Legal Retainer and Ms. Ritu Gupta, Advocate,
on behalf of BYPL.

Respondent No. 2: Shri S.K. Sharma, Manager and Shri Rajesh Kumar,
Deputy Manager on behalf of M/s Delhi Transco Limited.

Date of Hearing: 17.08.2022

Date of Order: 22.08.2022



ORDER

1. As all the above appeals raise a similar issue, i.e. release of new connections at the premises situated under EHV Line and location, i.e. Shri Ram Colony, Rajiv Nagar, Near Mustafabad Masjid, Delhi -110094, therefore, a joint hearing was conducted. As the issues were similar and in the same general area, the lawyer (for the Appellants) was same, arguments and counter-arguments by the Appellants and Respondents were also the same, the hearing was conducted on the same day.
2. Appeal No(s). 13/2022, 14/2022 & 15/2022 have been filed by Dr. Sualin, Shri Mohd. Hanif and Ms. Tabassum respectively through their Advocates Ms. Shyama Raeni & Ms. Tarannum Khan, against the orders as cited above of the Forum (CGRF-BYPL). The issue concerned in the Appellants' grievance is regarding non-release of a new domestic electricity connection by the Respondent at their premises situated at Shri Ram Colony, Rajiv Nagar, Near Mustafabad Masjid, Delhi - 110094.
3. The background of the appeals is that Respondent No. (1) had denied releasing electricity connections to all of them on the grounds that the premises are under Right of Way of HT (High Tension) Line. When the Respondent did not release the electricity connections to them, they approached the CGRF to redress their grievances with a prayer to direct the Respondent to release their connections, as many electricity connections have already been installed in the same area. The CGRF observed that the premises where the electricity connections have been applied for, are falling under the HT line and there is violation of Regulations 58, 60 and 61 of the Central Electricity Authority (Measures relating to Safety & Electric Supply), Regulations, 2010. As such, the Forum is of considered opinion that there is insufficient horizontal and vertical clearance from the EHV Line to these premises, therefore, the connections cannot be released.
4. The Appellants were not satisfied with the decision of the CGRF and they preferred these appeals on the grounds that the CGRF did not consider the fact that the connections sought are domestic purpose and there are already many connections installed in the same area except their premises. The Appellants further stated that they are the owners and in possession of the aforesaid premises and cannot conduct their daily activities smoothly without electricity.



In view of above, the Appellants prayed (i) to set-aside the aforesaid impugned orders passed by the CGRF, (ii) allow the cost of the proceedings and (iii) any other or further order as deemed fit and proper.

5. The cases were taken up for the hearing on 17.08.2022. During the hearing, all the parties were present, in person, along with their Counsels. The Officers of Delhi Transco Limited (DTL), Respondent No. - 2 were also called to give their view/opinion in the matter. An opportunity was given to all present to plead their case at length.

6. The Appellants through their Counsels reiterated the same as before the CGRF and in their appeals. They also contested that the Respondent No. 1, has already released a number of electricity connections to other inhabitants in the same area except them. The Counsel of the Appellants also submitted following documents in support of their contentions:

- (a) A judgement passed by the Hon'ble High Court of Delhi in the matter of Rahees Ahmed vs BYPL, in which the petitioner was granted electricity connection to building where the height was more than 18 meters, on certificate of architect approved by MCD.
- (b) A order dated 22.02.2022 of the CGRF-BYPL passed in the matter of Gudiya vs BYPL related to same subject matter. In this case, the connection was granted to the petitioner on submission of affidavit/undertaking.
- (c) A copy of bill, which established the fact that a connection has been energized on 29.08.2021, whereas they were denied by the Respondent.

7. The Respondent No. - 1 (Discom), apart from submitting their written statement argued that on the following grounds they have rejected the application of the Appellants for release of a new connection:

- a) Referred to the letter of the Deputy Secretary, Department of Power, Govt. of NCT, Delhi, dated 18.01.2017, wherein the Department has specially instructed not to release connection below the HT Lines, i.e. 220 KV line in this case. The letter also mentions that no construction be allowed below HT Lines.



- b) Joint Inspection Report stating that the vertical and horizontal clearances of the subject premises did not meet the criteria enshrined in Sections 58, 60 & 61.

8. The Respondent No. 1 further submitted that type of connection sought whether commercial or domestic is irrelevant and immaterial in this case. The main issue for rejection of Appellants' applications is non-availability of required safety parameters i.e. horizontal as well as vertical clearances. Safety parameters have to be ensured by them before releasing the connections. With regard to connections granted to others, they are not issuing electricity connections under EHV Lines after issuance of the Department of Power's letter dated 18.01.20217. However, thirteen (13) connections were granted to others on the basis of orders of the CGRF-BYPL.

9. The officers of the Respondent No. -2 (DTL), contended on the following lines:

- a) There are four transmission lines from Mandola, Uttar Pradesh to Delhi to cater to the electricity demand of Delhi. Out of this, one transmission line of 220 KV had been passing from Loni Road to Wazirabad, Delhi, and in operation for the last thirty (30) years. Constructions under these HT Lines are illegal. DTL's representatives submitted that every year, they file a petition under Section 68(5) of the Electricity Act, 2003, for demolition/removal of structure before the concerned authority. Demolition of unauthorized premises is beyond their jurisdiction. They further conveyed that DTL is not empowered to stop unauthorized construction. In their support, the DTL filed a copy of petition dated 21.10.2020 regarding unauthorized constructions beneath the 220 KV South of Wazirabad - Mandola Circuit - 1,2,3,4 overhead tower line at various locations, violation of various provisions of the Indian Electricity Act, 2003 read with Indian Electricity Rules, 1956 and Central Electricity Authority, Regulations. Details of notices issued to the consumers with their addresses are also submitted and taken on record.
- b) On being asked to file a further writ petition/follow up with the SDM or Civic Agency regarding the same, DTL submitted that it is for the Magistrate to take cognizance of the matter. DTL also submitted that though they followed-up with the SDM but did not receive any satisfactory response from them. DTL's officials further filed a copy



of advertisement of notice under Section 3A and 5 of Public Premises (Eviction and Unauthorized Occupants) Act, 1971 issued by the Department of Power dated 08.08.2021 in the leading newspaper. Through the advertisement, the GNCT of Delhi exhorts the residents and Discoms to take the following precautions:

- Clear passage of 52 meters for 400 KV line and 35 meters for 220 KV line.
 - A clear vertical distance of 7.3 meters from the 400 KV line and 5.5 meters from 220 KV lines from building/structure etc.
 - The horizontal clearance of 5.7 meters and 3.8 meters for 400 KV and 220 KV lines respectively from the building/structure, etc.
 - The construction under or in the vicinity of High Tension Voltage Line is 'illegal' and unauthorized. Violations may result in accidents, failure of power supply and legal action, etc.
- c) DTL has further submitted that the instant matter came to their notice when the joint inspection had been carried out on the instructions of the CGRF-BYPL. In this case, notices have been issued to Appellants. However, it was denied by the Appellants. The Appellants and the Respondent No.-1 had nothing to argue on the above submissions of DTL.

10. I have gone through the appeals, written statements of the Respondent and relevant circulars/rules very minutely. I have also heard the arguments of the contending parties. Relevant questions were asked and queries raised by the Ombudsman, Advisor (Engineering) & Advisor (Law) on various issues to get more information for clarity. This Court tends to agree with the Respondent that the premises in question are located right below the 220 KV EHV lines owned by Delhi Transco Ltd. The vertical and horizontal clearances do not meet the prescribed criteria, hence, there is violation of Regulations 58, 60 and 61 of the Central Electricity Authority (Measures relating to Safety & Electric Supply), Regulations, 2010. The clearances of the premises are given in the chart below:



S.N.	Name of the Appellant(s)	Horizontal Distance/ Clearance from the EHV 220 KV Line	Vertical Distance/ Clearance from the EHV 220 KV Line
1.	Dr. Sualin	'0' meter	8.10 meter
2.	Shri. Mohammad Hanif	'0' meter	3.70 meter
3.	Ms. Tabassum	'0' meter	3.70 meter

The above clearances, specifically from the horizontal clearance point of view make the building and its inhabitants vulnerable to accidents and are dangerous to the life and property. Further, the letter referred to by the Respondent dated 18.01.2017 issued by the Deputy Secretary (Power) also clearly mentions the following:

"- Yamuna/River front which falls under "Zone O" as per Delhi Master Plan 2012 notified on 07.02.2007. In the "Zone O", the construction done by any person is illegal and would be dealt strictly as per law.

- Construction under high tension lines - As per CEA Regulations, 2010, there is a right of way for the HT lines under various voltage levels. No construction is allowed under these HT lines as per the right of way specified in the said CEA Regulations."

11. Both the provisions are very specific and the construction undertaken in the 'Zone O' and also under the High Tension Lines are considered illegal. The Respondent is not required to give connection to the illegal/unauthorized buildings. This also has been emphasized by the High Court in their order dated 20.12.2017 in the matter of Parivartan Foundation Vs South Delhi Municipal Corporation & Ors. in writ petition WP(C) 11236/2017, where the Discoms/Delhi Jal Board has been categorically instructed not to give connection to illegal/unauthorized buildings.

12. The contention of the Appellants that the connections have been given in the locality except them. When confronted with this fact, the Respondent could only say that these connections were given prior to the letter of the Deputy Secretary (Power) dated 18.01.2017 and as a matter of policy and abundant caution, they have not been giving connections subsequent to this letter. This court considers the argument as lame as the EHV line existed prior to 2017 and Central Electricity Authority (Measures Relating to Safety and Electric Supply) Regulations, 2010, also was there in force prior to 2017 (in fact the Regulations came into force in 2010 and even prior to that similar provisions existed in the statute book). Considering the existence of both the above factors, the danger to



life/property was always there. Incidents affecting lives have been reported from that area and the recent one being reported on 15.08.2022 in which a life was lost in the area of Harsh Vihar, under the same EHV Line. The questions are i.e (i) why were the Respondent waiting for Deputy Secretary (Power) to arbitrate on an important issue concerning danger to life and property of the citizens and (ii) why were the officers of DTL not consulted before releasing the earlier connections. There is a total absence of any monitoring mechanism or enforcement by the Respondent as well as DTL and failure to take necessary follow-up action to check and prevent the situation on the ground. It is unfortunate that the Respondent had been releasing connections despite existence of the above factors while putting the life and property to jeopardy.

13. In view of the above discussions, I am of the considered opinion that the respective CGRF's orders of not releasing connections to the Appellants are right and I tend to agree with the orders. Further, in earlier order, the Respondent has been asked to submit a report by 04.09.2022 with regard to connection given to premises under the EHV Lines since 2010. They also have been asked to submit the corrective action taken or being proposed in the report.

The appeal stands disposed off accordingly.


(P. K. Bhardwaj)
Electricity Ombudsman
22.08.2022