

OFFICE OF 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. 17/2023

(Against the CGRF-BYPL's order dated 22.03.2023 in Complaint No. 44/2023)

IN THE MATTER OF

Shri Mohammad Zafar

Vs.

BSES Yamuna Power Limited

Present:

Appellant: Shri Vinod Kumar, Advocate on behalf of the Appellant

Respondent: Shri Gagan Sharma, ASVP, Shri Deepak Singh Verma,
Sr. Manager, Ms. Shweta Chaudhary, Legal Retainer and
Ms. Ritu Gupta, Advocate, on behalf of BYPL

Date of Hearing: 19.07.2023

Date of Order: 26.07.2023

ORDER

1. Appeal No. 17/2023 has been filed by Shri Mohammad Zafar, s/o Shri Abdul Hameed, R/o Khasra No. 27, Budh Vihar, Village Mandoli, Delhi- 110093, through Shri Vinod Kumar, Advocate, against the CGRF-BYPL's order as cited above.

2. The background of the case relates to denial of his application for a new 3-phase non-domestic (NX category) electricity connection for a load of 6 KW by the Respondent (Discom) on the grounds that (a) separate dwelling unit does not exist as per the Clause No. 10(1-vi) & 11(2) (viii) of the DERC's Supply Code, 2017, (b) the area electrified on single phase HVDS (11 KV) network where small capacity (single phase 25 KVA) transformers are installed on the pole as there is no space for installation of sub-station or big transformer, and (c) DPCC's (Delhi Pollution Control Committee) certificate is required as the Appellant wants connection for gas burner



3. The Discom submitted before the Forum that there is no 3-phase network available at nearby pole from the premises where connection has been sought. One non-domestic connection is already existing (CA No. 553116330) at the ground floor of the subject premises in the name of Shri Ashok Wahi, for which meter removal order is required. Discom also stated that they carried out a site visit on 06.03.2023 and reported that 3-phase LVDS network is approx. 160 meters away from the applied premises. The Appellant denied the contention of the Respondent and stated that they have already installed a number of electricity connections (3-phase) from LVDS Network in the vicinity of the area. The Discom in their rebuttal submitted that two connections were released in Radha Vihar and one connection in Jagatpuri, which belong to different areas and these sites have already augmented with LVDS system where 3-phase connection is available. The CGRF rejected the Appellant's complaint on the consideration of the aspect that since the area, where the complainant applied for a new commercial (non-domestic) connection is electrified through the HVDS system, therefore, the LVDS connection cannot be released to the complainant.

4. Aggrieved from the above cited order, the Appellant preferred this appeal reiterating the same grounds as submitted before the Forum and stated that he is in genuine need of the electricity connection, hence, prayed to direct the Discom to release the non-domestic connection. Also, demand compensation on account of unnecessary harassment.

5. The Respondent's response to appeal is as mentioned in para 2 supra. In addition, the Discom submitted that the area/colony is unauthorized and as per Regulation 22 of DERC's Supply Code, 2017 - *the Appellant or RWA/Society of the area should provide the space of requisite dimensions at a technically feasible location to the Discom, free of cost*, which the Appellant failed to provide. They also submitted that except one case all 3-phase connections/bills, as claimed by the Appellant, are of different areas/colonies. Only one three-phase connection (CA No. 101637302) pertains to Budh Vihar and that is also of different block, i.e. 'A-Block' was energized in the year 2007, when demand of electricity was much less and Discom was having capacity to grant three-phase connection.

Furthermore, the Respondent submitted that they are corresponding with all the concerned authorities on regular basis, i.e. Land owning Authorities, Power Ministry, etc. to provide them space/consent for augmentation of the area, however, till date no response/reply received from any of them. Consequently, three-phase connection was not granted to the Appellant.



6. The appeal was admitted and taken up for the hearing on 19.07.2023. During the hearing, the Appellant was represented by his Counsel Shri Vinod Kumar and Respondent was represented by their Authorized Representatives/Counselors. An opportunity was given to both to plead their case at length.

7. During the hearing the Counsel of the Appellant was asked to quote the relevant provision of law as per the DERC's Regulations, 2017, under which his right for the requisite electricity connection can be granted but he failed to provide the necessary details. The Counsel was only repeating that 3-phase connections have been released in the area and accordingly connection should be released to his client also. There should be no pick and choose on the part of Discom

8. In rebuttal, the Respondent reiterated their justification as submitted in its written submission. On being asked, when an order dated 26.11.2020 had been passed by the then Ombudsman in the similar case viz; Mala Devi Vs BYPL, recognizing the duty of the Discom to augment network for providing electricity and, to pursue the matter with concerned authorities, then how it had taken more than two years' time to communicate with them without any concrete solution to the problem. There was certainly a lack of follow up on the part of Discom. The Respondent could not give any satisfactory response.

On being asked, how service cables are supported of 3-phase electric connections (CA No. 101637302 and 151743164) which have already been provided in the year 2007. The Respondent replied that both service cables are mounted in hybrid mode i.e. using HVDS pole as well as temporary wooden log arrangement.

9. The Advisor (Engineering) discussed the Site Visit Report dated 06.03.2023 for 'Technical Feasibility' (submitted by the Discom before the Forum) with the officials of the Respondent at length and asked whether the following three options for providing connections could be exercised by the Discom:

- (i) Augmentation of single phase HVDS with three-phase HVDS and installation of 25 KVA Transformer near Appellant's premises;

OR

- (ii) To lay 11 KV underground cable from existing three-phase network/Ring Main Unit (RMU) and install 25 KVA Transformer near Appellant's premises;

OR

- (iii) To extend the LVDS network which is existing at a distance of 160 meters/nearest point by erecting pole/s.



10. Respondent was directed to submit the 'Technical Feasibility Report' on the above mentioned three options, whereas, the Appellant was directed to submit details of specific regulations, for release of the connection positively by 24.07.2023 (Monday).

11. Both the parties submitted their reply on 24.07.2023. As mentioned three technical options in Point No. 9 supra, the Respondent replied that Option (i) & (ii) are not feasible because there is no space available for creation of sub-station/RMU. They had already requested and are regularly following up with land owning agencies in this regard but till date there is no response. However, in case consumer/appellant provides space for sub-station then only it will be technically feasible. With regard to Option No. (iii), the Respondent submitted that there are already four (4) HT poles erected along the route which cannot be used as per CEA guidelines. Six new LT poles will be required to be installed in the area. The Appellant may be requested to provide NOC/permission from Land/Road owning agencies and approval from owner of the premises within vicinity for installation of new poles. Further, after extension of supply the actual distance from the DTR to Appellant's premises will be around 330 meters which may lead to chances of voltage drop at the Appellant's premises. In addition, ground floor of the premises is already electrified through CA No. 553116330 for non-domestic category in the name of Ashok Wahi, as such, for new connection meter removal order is required.

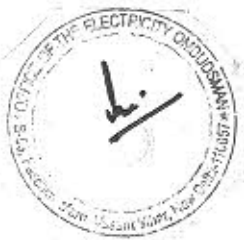
The Counsel for the Appellant submitted that connection be released to him as per Regulation 11(4)(ii) of the DERC's Supply Code.

12. Reliance has also been placed by the Discom on a decision dated 26.11.2020 issued by the then Ombudsman in the case Smt. Mala Devi vs BSES-YPL, where the Ombudsman examined Regulation 17, amendment in Clause 1 of Principal Order issued on 02.02.2018 and Regulation 11(4) of the DERC's Supply Code, 2017. The relevant part of the regulation reads as under:

Quote

Regulation 17 (7) Conversion from single phase to three phase LT and from LT to HT; and vice-versa:

- (i) *All applications for change from single phase to three phase Low Tension and from Low Tension to High Tension; and vice-versa, as the case may be, shall be dealt as per the procedure laid down at Regulation 11.*



- (ii) Conversion of existing classification of system of supply shall be carried out in the manner and on payment of charges as may be specified in the Commission's Orders." (Amended as on dated 15.02.2018).

Schedule of Charges and the Procedure (Second Amendment) Order, 2018, issued on 02.02.2018

Amendment in Clause 1 of the Principal Order:

- (1) The following shall be inserted after first proviso under Clause 1 of the Principal Order, namely:-

Provided further that on the request of the applicant having a load demand from 5kW to 10kW, the Licensee may release a new connection at 3 phase 4 wire at 400/415 V supply:

Provided also that on the request of the existing consumer having a load demand from 5kW to 10kW demonstrating the requirement of supply at 3 phase 4 wire at 400/415 V, the Licensee may change the existing system of supply from single phase to 3 phase 4 wire at 400/415 V on receipt of differential service line-cum-development charges, if any, as per provisions of Regulation 21 (2) of Delhi Electricity Regulatory Commission (Supply Code and Performance Standards) Regulations, 2017.

Further, the procedure and time limits for releasing of the connections have also been laid down in Regulation 11 as referred to in Regulation 17 (7) (i) above for connections where system augmentation is required in electrified areas. The relevant part of the Regulation 11 (4) (ii) is quoted as under:

Regulation 11 (4) (ii) Connection where system augmentation is required in electrified areas:-

- a. *The Licensee shall not deny new connection as long as the peak load including the load capacity of the new connection on the applicable distribution transformer falls within and up to 90% of the rated capacity of the transformer.*
- b. *The Licensee shall take appropriate action for augmentation of the capacity, as soon as the peak load on the existing applicable distribution transformer(s) reaches about 70% of its rated capacity.*
- c. *Subject to sub-clause (a) above, if giving of new connection requires augmentation of distribution system, the Licensee shall inform the applicant about the approximate time frame by which the applied load can*



be energized. Such time frame shall not exceed the time schedule specified as under:

(i)	Electrified Areas (where extension of line upto five poles is required)	Within 15 days from the date of receipt of full payment against demand note.
(ii)	Electrified Areas (Where extension of lines or augmentation of Distribution Transformation capacity, where peak load of transformer has reached 90% of its rated capacity)	Within 2 months from the date of receipt of full payment against demand note.
(iii)	Electrified Areas (Where new Distribution Transformer is required)	Within 4 months from the date of receipt of payment against demand note
(iv)	Electrified Areas (Where existing 11 KV network needs to be augmented)	Within 6 months from the date of receipt of payment against demand note
(v)	Electrified Areas (Where existing 66/33 kV grid sub-station needs to be augmented)	Within 8 months from the date of receipt of payment against demand note

Provided that the Licensee may approach the Commission for extension of time specified in specific cases, where magnitude of electrification works is such that it requires more time, duly furnishing the details in support of such request for extension.

Unquote

13. It was observed upon consideration of the provisions of the Regulations that the Discom cannot deny 3-phase connection in view of the statutory provisions and shall have to take action for augmentation and modification of their distribution network.

14. No concrete action for augmentation and modification of distribution network appears to have been taken during the period November, 2020 till March 2023 despite directions of the Ombudsman in Mala Devi case. The consumers cannot be made to suffer indefinitely due to the failure of the Discom to expand/augment its network and services. Regulation 11(4) (ii) of DERC (Supply Code & Performance



Standards) Regulations enjoins upon the licensee (DISCOM) to take effective steps for augmentation of the network within a timeframe. It is also to be noted that the Respondent has to take concrete steps in consultation with the Power Department, Govt. of NCT of Delhi, local government, MCD, DDA or any other land agency, as well as local Residents Welfare Association, and undertake joint inspections from time to time for identification and allocation of land for amelioration of the suffering of the local population. Even after two and half years, the necessary joint site inspection and identification of land could not take place.

15. This Court, therefore, directs as under:-


(a) After considering/examining all the options, the Respondent is directed to replace the existing single phase HVDS network and related 25 KVA, single phase transformer with three phase HVDS network and three phase 25 KVA transformer/sub-station on the existing pole. In case one more pole needs to be erected, it should be done near Appellant's plot/premises and connection be provided, which is the consonance with Regulation 11(4)(ii) of DERC's Supply Code, 2017. This may be undertaken by the Discom in next two months.

(b) The Service cables of two 3-phase electric connections (CA No. 101637302 and 151743164) which are mounted in hybrid mode i.e. using HVDS pole as well as temporary wooden supports (Balli), is an unsafe arrangement and safety cannot be comprised. The Respondent is hereby directed to lay both service cables on safe arrangement/separate pole.

(c) Steps may immediately be taken for disconnection of connection bearing CA No. 553116330 in the name of Shri Ashok Wahi.

(d) The CEO may take effective steps for regular and efficient coordination with the civic agencies/RWAs for identification of space for network augmentation and redressal of grievances of consumers.

The appeal is disposed off accordingly.


(P.K. Bhardwaj)
Electricity Ombudsman
26.07.2023