

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

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Appeal No. 21/2023

(Against the CGRF-BYPL's order dated 19.04.2023 in Complaint No. 94/2023)

IN THE MATTER OF

Shri Feroz Ali

Vs.

BSES Yamuna Power Limited

Present:

Appellant: Shri Feroz Ali, in person.

Respondent: Shri Nishant Chauhan, Manager, Ms. Shweta Chaudhary,
Legal Retainer and Ms. Ritu Gupta, Advocate, on behalf of
BYPL

Date of Hearing: 26.07.2023

Date of Order: 27.07.2023

ORDER

1. Appeal No. 21/2023 has been filed by Shri Feroz Ali, s/o Shri Khalid Ali, r/o House No. 53, Aram Park, Gali No. 4A, Shastri Nagar, Delhi-110031, against the above cited order.

2. The brief facts of the case are that Shri Feroz Ali, Appellant (son of Smt. Nasreen Siddiqui, owner of the premises) had approached the CGRF-BYPL (Forum) with a complaint that he had applied for four non-domestic connections at the premises situated at No. 16, Gali No. 4-B, Aram Park, Shastri Nagar, Delhi - 110031, as details given below but the Respondent (Discom) rejected the same on the ground that "*Fire Safety Clearance*" required for building height more than 15 meters or as having ground plus four floors including mezzanine floor (Business



Building) (basement g5 commercial building TF reject". Site Plan of the building also placed on record before the Forum.

Name	Floor	Application Nos.
Mr. Mohd Arif	Upper Ground Floor	008006125652
Mr. Feroz Ali	First Floor	008006125593
Mr. Sahir	Second Floor	008006129606
Mr. Feroz Ali	Third Floor	008006125597

The Appellant also stated that in other Area/Division, namely Building No. E-14/A, Jawahar Park, Laxmi Nagar, Delhi, Discom had already released nine connections to the building having ground plus five floors on 26.07.2022.

3. The Discom before the Forum contended that the site was inspected on 21.01.2023 and found that building height is more than fifteen meters and consisting of basement + Ground Floor + Upper Ground Floor + Four Floors. The building, in question, is a commercial property, therefore, 'Building Completion Certificate' from the Municipal Corporation of Delhi (MCD) or 'Fire Clearance Certificate' from the Fire Department is required to be submitted by the Appellant.

With regard to connections granted in a building (Ground + five Floors) situated at the Laxmi Nagar, the Discom informed that those were granted in July 2022, on the basis of certificate provided by the MCD approved Architect. At the time of granting of new connections, building existed as ground + four floors and fourth floor of the building consisted of terrace, mumty, etc. On the contrary, in the Appellant's case, fourth floor is treated as sixth and fully constructed floor, hence, connection would only be released on the basis of BCC or NOC from the concerned authorities. In rebuttal, the Appellant argued that the Discom has taken the height of his building including basement, whereas the height of other building has taken into consideration only till ground floor.

4. The Discom for its part, had submitted that the Appellant's application cannot be acceded to in terms of Regulation 7 read with clause 26 of Central Electricity Act (Measures relating to safety and electric supply Regulations), 2010. As building is commercial, as such the DERC's Sixth Amendment vide letter dated 15.04.2021 is also not applicable.

5. On perusal of the evidence placed on record, the Forum observed that the building, where the connections applied for, is a commercial building and height of building is more than 15 meters, therefore, complainant has to provide Fire



Clearance Certificate or Building Completion Certificate for release of non-domestic connections. The Forum also referred to the Delhi High Court's order dated 06.12.2019 in WP(C) 2453/2019 titled Ms. Azra vs the State (Govt. of NCT Delhi & Ors) and, held that the Respondent rightly rejected the new connections.

6. Aggrieved by the CGRF's order as cited above, the Appellant has filed an appeal reasserting his plea and prayed for release of the requisite non-domestic connections on the basis of Architect's certificate, as granted to others.

7. The Respondent in written submission to the appeal reiterated its stand as before the Forum. In addition, the Respondent submitted that the Appellant had applied for a new connection at the said premises on 18.01.2023. The site was visited on 21.01.2023 and found that building is commercial in nature and consists of basement + ground floor + upper ground floor + four floors over it or to say effectively six floors, if counted from ground floor. Consequently, a deficiency letter was issued to the Appellant. With regard to the Appellant's contention that he has been seeking connection for third floor, as such, he is entitled for a connection on the basis of architect's certificate as the height of the floors wherein connections are sought falls within the permissible limit. The Respondent has stated that as the building in question is commercial, hence, DERC's Sixth Amendment vide letter dated 15.04.2021 is not applicable.

8. The appeal was admitted and taken up for the hearing on 26.07.2023. During the hearing, the Appellant was present, in person, Respondent was represented by their Authorized Representatives/Counselors. An opportunity was given to both to plead their cases at length.

9. During the hearing, the Appellant admitted that the building, in question, is commercial and having height around 18 meters. The Appellant also raised his objection on electricity connections granted to others under similar circumstances in Laxmi Nagar area, i.e. on the basis of Architect's Certificate. Further, he has shown his inability to submit BCC and instead is ready to submit the Architect's Certificate.

10. In rebuttal, the Respondent reiterated its written submission on the Appellant's appeal to this office and referred Clause 7.19 (Height Exemption) in Unified Building Bye-Laws for Delhi. The said clause was referred to counter the argument of the Appellant that certain properties which are similarly placed have been given connection.



11. The matter has been considered. In the case of a commercial building, the height of the building in totality is taken into consideration and not the height of a particular floor. The consideration in the DERC's Sixth Amendment dated 15.04.2021, applies only to residential buildings and does not apply to commercial buildings. This Court upholds the decision by the CGRF. The Appellant is directed to obtain Building Completion Certificate/Fire Clearance from the concerned authorities for release of the new connections after completion of commercial formalities.

In so far as the connections given in Building No. E-14/A, Jawahar Park, Laxmi Nagar, Delhi, in case the same have been granted on the basis of an erroneous Architect's certificate or for unauthorised construction, it will be open for the officers of the DISCOM to take up the matter with the MCD for appropriate action, as contemplated by the Delhi High Court in Parivartan case. In this particular case, it is seen that there is clear discrepancy in the field visit report of Discom and the Architect's certificate which has been accepted for release of connection. The Respondent is directed to send a report after a vigilance enquiry as to how this discrepancy was reconciled for release of connection. The report be sent to this office by 15.08.2023.

The appeal is disposed off accordingly.


(P.K. Bhardwaj)
Electricity Ombudsman
27.07.2023