

OFFICE OF ELECTRICITY OMBUDSMAN

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

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Appeal No. 22/2025

(Against the CGRF-BYPL's order dated 07.04.2025 in Complaint No. 585/2024)

IN THE MATTER OF

Shri Gautam Kapoor & Sidharth Kapoor

Vs.

BSES Yamuna Power Limited

Present:

Appellant: Shri Gautam Kapoor and Shri Sidharth Kapoor along with
Shri Neeraj Kumar, Advocate.

Respondent: Shri Ravi Tiwari, Shri Shiven Mishra and Shri Akash Swami,
Advocate, on behalf of BYPL.

Date of Hearing: 16.07.2025

Date of Order: 18.07.2025

ORDER

1. Appeal No. 22/2025 dated 06.05.2024 has been filed by Shri Gautam Kapoor & Shri Sidharth Kapoor, C/o 138, UGF, Balaji Market, Pul Mithai, Teliwala, Delhi - 110006, through their advocate Shri Vinod Kumar, against the Consumer Grievance Redressal Forum – Yamuna Power Limited (CGRF-BYPL)'s order dated 07.04.2025 in Complaint No. 585/2024.

2. The background of the case is that the Appellants had jointly purchased the above mentioned shop having an area of 9.29 Sq. Meters through a registered sale-deed on 01.01.2024,. They subsequently applied for a new non-domestic electricity connection of 1 KW vide Application no. 800711376/800725934 for the Upper Ground Floor of the premises/building situated at 138, Balaji Market, Pul Mithai, Teliwala, Delhi - 110006. However, the Discom rejected their application on the ground that (a) outstanding enforcement dues, (b) Space for installation of Electric Sub-station and (c)



'Fire Safety Clearance Certificate' Required for Building Height more than 15 Meters or having Ground plus Four Floors, including a mezzanine floor (Business Building), vide their "Deficiency Notice" dated 30.10.2024.

3. In response, the Appellant filed a complaint before the CGRF-BYPL asserting that the objections raised by the Discom were made deliberately and without any reason. They requested to allow them for a new non-domestic connection, vide Order No. 8007113776. Further, in their rejoinder dated 03.12.2024, the Appellants submitted that the height of the building in question is not more than fifteen (15) meters. Furthermore, the Discom has released about fourteen electricity connections, on the basis of Architect Certificates, and the Appellants submitted copies of all connections, to support their contention, which were taken on record by the Forum. Moreover, one connection bearing CA No. 154273352 was recently released on the Architect Certificate in the name of Shri Harsh Panjwani energized on 04.10.2023, on the top floor of the same building. The Appellant requested the release of the connection under Article 14 – Equality before the law of the Constitution of India and expressed their willingness to submit any kind of affidavit/ undertaking, as directed the Forum.

4. The Respondent's submission before the Forum was that the complainant approached the Discom vide Application No. 8007254934 to get a new non-domestic electricity connection of 1 KW at the premises mentioned at Point No. 2 above. Subsequently, a site inspection was carried out on 03.10.2024, and found that building consists of Ground Floor + Upper Ground Floor and plus Four floors including a mezzanine floor and the height exceeds 15 meters. According to Clause 4(ii) of Schedule of Charges and the Procedure (Sixth Amendment) Order, 2021 of DERC (Supply Code and Performance Standards) Regulations, 2017 – "in the dwelling units which are above the height of 15 meters without stilt parking and 17.5 meters with stilt parking of the building, the electricity connection shall not be provided unless the fire clearance certificate has been obtained." Moreover, since the building is being used for trading activities/multiple activities, therefore, obtaining a fire safety clearance certificate is mandatory to release the new electricity connection. It was also found that total area of the building is more than 500 Sq.M., i.e., and, therefore, total cumulative floor area of the building is more than 2000 Sq. M. Consequently, as per the Clause 6(4) of Schedule of Charges, 2017 – with Regulation 22(ii) of Supply Code, 2017, the ESS space is mandatory. Furthermore, there is an enforcement dues of Rs.1,32,535/- against CA No. 400033609 (vide Enforcement Bill No. YMENF270920070019) since 2007, which is also payable on the same building, for which the Appellants have requested electricity connection. Furthermore, the Discom relied upon Regulations 5 (1) and 11 (2) (iv) (c) of DERC's Supply Code, 2017, to substantiate their claims. As a result, the request of new connection was rejected vide their "Deficiency Notice" dated 30.10.2024.



5. The CGRF-BYPL, in its order dated 07.04.2025, after considering all the facts nullified/dismissed the two objections; (i) requirement of ESS Space as the most of the connections were sanctioned prior to 2017, and the Discom has not submitted any DERC's Regulations, which were applicable at the time of construction of the building in question, and (ii) an enforcement dues of Rs.1,32,535/-, because the Discom has not produced any evidence on record how they have not claimed the due amount for the last 17 years and how they released new connections to other floors of the same building.

In view of the above, the Forum partially allowed the complaint and directed the complainant to submit a 'Fire Clearance Certificate' for grant of a new electricity connection, as the building height is more than 9 meters. According to the Delhi Fire Services' regulations for the mercantile buildings, the height of the building should not be more than 9 meters but in the present case, it is more than 9 meters. Therefore, it is mandatory to submit the fire clearance certificate.

6. The Appellants, aggrieved by the above mentioned order, have filed this appeal, reiterating the facts as placed before the CGRF-BYPL. In addition, the Appellant submitted that they are co-owners of a retail shop, consisting on area of 9.29 sq. meters on the Upper Ground Floor in the old constructed building. In fact, there are already 14 electricity connections granted by the Discom in the same building. Moreover, one connection has been granted in the name of Shri Harsh Panjwani on the third floor of the building in question on the basis of an Architect's Certificate, while the Appellant's were denied. The Appellants further asserted that the subject building is a business building rather than a mercantile, as stated in the CGRF's order. A "Business Building" falls under Rule 27(7) of Delhi Fire Service Rules, 2010, which states "business building having height more than 15 meters or having ground plus four upper stories including mezzanine floor". Therefore, the Upper Ground Floor where connection applied is within the permissible limit.

The Appellant has prayed following:

- (a) To set-aside the CGRF-BYPL's order dated 07.04.2025.
- (b) To direct the Discom to release the electricity connection applied for.
- (c) To award compensation on account of mental harassment.

7. The Discom, in its written submission dated 28.05.2025 to appeal, reiterated the facts as placed before the CGRF-BYPL. In addition, the Discom submitted that due to the commercial nature of the building/premises, in question, the connection sought is also non-domestic. The building consists of Ground plus five floors (a commercial building). Consequently, the entire nature of the building is commercial, and the same is governed by Rule 7 of 27 of the Delhi Fire Services Rules, 2010. Therefore, the Fire NOC is required. The Discom further referred to the Ombudsman's order dated



23.10.2024 passed in Appeal No. 24/2024 in the matter of Shri Subhash Vs. BYPL. However, the Discom did not clarify on what basis a number of connections were released for the same building, being the height of the building is above 9 meters.

8. The appeal was admitted and fixed for hearing on 16.07.2025. During the hearing, both the parties were present along with their representatives/advocates. An opportunity was given to both the parties to plead their respective cases before the Ombudsman at length and relevant questions were asked by the Ombudsman and Advisors.

9. During the hearing, the Advocate appeared for the Appellant and reiterated the contentions and prayer as in the appeal. In response to a query about trading in his shop as well as other individuals' shop in the building, the Appellant submitted that a small shop was purchased jointly by them for selling the cleaning items in retail and others' shops also deal in different nature of businesses. Due to non-release of requisite connection, they are not in a position to run their business which caused undue harassment to them. He asserted that his small shop at the Upper Ground Floor in an old constructed building is to be covered under the category of business building instead of mercantile building. Reliance upon Proviso of 4 (1) (ii) of DERC Sixth Amendment Order dated 15.04.2021 was taken by him in this regard. He also read the definition of Mercantile Building, taken from the Google, before the Ombudsman under which the height of his applied shop is within the permissible limit. On this, Advisor (Engineering) showed Clause 1.4.75(f) of notified UBBL, 2016 to the Appellants. As far as building height beyond 15 meters is concerned, he referred the Site Visit Report dated 24.10.2024, conducted by the Respondent, reflected uploaded image of 'tin shed' at the top floor and contended that if that structure (appears to be temporary) would be removed then the height of the building would be within the permissible limit of 15 meters. Apart from that attention was invited by him to the point 4 (1) of the Minutes of Meeting (MOM) dated 16.06.2023, held among the various govt. departments in the O/o DERC wherein the issue of height was discussed, in detail. He contended that as per the said MOM, if the dwelling units are within the height of 15 meters without stilt parking, the electricity connection could be released without insisting of Fire Clearance Certificate (FCC). Hence, he pressed upon the argument that the building, having dwelling units, should be considered within the height of 15 meters besides 9 meters which necessitates Fire Clearance Certificate in the light of Rule 27 of Delhi Fire Service, 2010. However, at the same time, Advisor (Engineering) corrected them that it is a valid for 'Residential Building' only. Moreover, except his applied shop, all the individuals of shops in the building are enjoying electricity.

The Ombudsman also explained to the Appellants the specific definition of Mercantile Building as mentioned in UBBL-2016 (Unified Building Bye-Laws for Delhi). Further, the Clause 1.4.75 of UBBL 2016, which refers to the classification of building occupancies, was also explained. It outlines how buildings are categorized based on



their intended use, which is a crucial factor in determining fire safety requirements and other building regulations. As regards existence of numerous connections in the building, a reference was made to the M/s Azra Vs. The State (GNCT of Delhi) & Ors (WP(C)-2453/case passed by the High Court of Delhi.

10. In rebuttal, the Respondent reiterated its contentions made in the written submission. They emphasized that the removal of the tin shed is irrelevant in the instant matter, as the building falls under the category of mercantile building (9 meters) rather than a business building (15 meters). Therefore, FCC/NOC of the building from the Delhi Fire Service Department is mandatory for releasing of the requisite non-domestic (NX) connection. The Officer present could not reply convincingly in response to a query by the Ombudsman on what basis numerous electricity connections were released since 2010 when the Delhi Fire Service Rules, 2010, as well as Central Electricity Safety Rules, 2010, already prevailed. The Counsel submitted that the connections granted till 2018 to other individuals is a matter of investigation. However, he provided the details of 14 connections, existing in the building, as submitted before the CGRF, and contended that one connection shown as energized on 04.10.2023, in the name of Shri Harish Panjwani, was basically energized earlier and later name change was carried out. Hence, the old date was changed with a new dates. In addition, Fire NOC is must in terms of the law laid down by Hon'ble Supreme Court of India in the case of Vikas Singh Vs. Govt. of NCT of Delhi –SLP (C) 16053 of 2016.


11. Having taken all factors, written submissions and arguments into consideration, the following aspects emerge:

- (a) It is clear that the building is non-residential and is a commercial building, consisting of Ground Floor + Mezzanine Floor + Four Floors or we can say Ground + Five Floors, thus, total height of the building exceeds more than 15 meters. Therefore, Schedule of Charges and the Procedure (Sixth Amendment) Order, 2021 (dated 15.04.2021) is not applicable in the present case.
- (b) The connection bearing CA No. 154273352 (NX) energized on 04.10.2023 on the basis of an Architect Certificate in favour of Shri Harsh Panjwani at third floor, needs to be investigated, as at fourth floor, connection was granted on 19.07.2010, which means in 2010 building status was same as of now, i.e. Ground + Five Floors.



- (c) It was observed that the building is neither a business building nor mix-use/residential. Sixth Amendment order, 2021 is not applicable in the instant matter as the building is mercantile in nature (9 meters) in the light of UBBL-2016 (Unified Building Bye-Laws for Delhi).
- (d) in view of safety parameters, as narrated above, and considering various fire incidents, the requisite NX connection could only be granted upon submission of Fire NOC subject to completion of other commercial formalities.
12. In the light of the above, this court directs as under:
- (i) The order passed by the CGRF-BYPL is up-held.
- (ii) The Discom is directed the connections released in the building in question, need to be reviewed, in view of the fact that the height is more than 15 meters.
13. The parties are hereby informed that this order is final and binding, as per Regulation 65 of DERC's Notification dated 24.06.2024.

The case is disposed off accordingly.


(P.K. Bhardwaj)
Electricity Ombudsman
18.07.2025