

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 No.: 011-26144979)

Appeal No. 30/2022

(Against the CGRF-BYPL's order dated 04.08.2022 in Complaint No. 134/2022)

IN THE MATTER OF

Smt. Shah Nazar

Vs.

BSES Yamuna Power Limited

Present:

Appellant: Shri Fateh Mohammad, Spouse of Smt. Shah Nazar along with
Shri Vinod Kumar, Advocate on behalf of the Appellant

Respondent: Shri Imran Siddiqui & Ms. Seema Rawat, Senior Managers
and Ms. Ritu Gupta, Advocate, on behalf of BYPL

Hearing: 24.11.2022

Date of Order: 25.11.2022

ORDER

1. Appeal No. 30/2022 has been filed by Smt. Shah Nazar, R/o F-153-A/1 F, Ramesh Park, J.P.West, Laxmi Nagar, Delhi-110092, through her advocate Shri Vinod Kumar, against the order of the Forum (CGRF-BYPL) dated 04.08.2022 passed in Complaint No. 134/2022.

2. The instant appeal is that the Appellant had applied for a new domestic electricity connection vide request no. 8005672608 at the fourth floor of the premises, in question, but the Respondent had rejected the same on the ground that the building, in question, has already nine connections (details given below), which were installed in the year 2020 and granted as per the rules/law after receiving the building completion certificate dated 05.09.2020.

S.N.	Floor(s)	CA Nos.	
		Left Side	Right Side
1.	Parking/Staircase	153159471	
2.	Upper Ground Floor	153141456	153141451
3.	First Floor	153141455	153141457
4.	Second Floor	153141453	153141459
5.	Third Floor	153141460	153141454

3. The building, in question, is comprising of parking + UGF + 3 floors, as per the building plan submitted by the Appellant in 2020. The Appellant had now applied for the fourth floor, which does not exist in the building plan map also. With regard to the EDMC's completion-cum-occupancy certificate dated 05.09.2020, the Respondent stated that it is an automatic/electronically generated document.

4. Further, on the direction of the CGRF, the Respondent re-visited the site for inspection on 25.07.2022 and found that parking has been converted into a flat which covered more than 60% of the area and the height of the building is 18.20 meters. Therefore, the connection has not been granted as per Sixth Amendment of DERC's Supply Code dated 15.04.2021. In this regard, the Respondent asked the Appellant to submit a building completion certificate in respect of fourth floor, (which as per physical site visit is "fifth floor") but failed, as such, the Appellant's request for release of new connection stands rejected.

5. The CGRF in its order dated 04.08.2022 opined that the complainant has constructed the fourth floor later on, so the building height has been increased upto 18.20 meters and stilt parking is also encroached, as per the Joint Inspection Report dated 25.07.2022, and directed the Respondent to release the connection to the complainant on filing the Building Completion Certificate from MCD (earlier EDMC)/Fire Clearance Certificate and after fulfilling all the commercial formalities as per the DERC's Guidelines, 2017.

6. Aggrieved from the CGRF's order dated 04.08.2022, the Appellant filed an appeal before the Ombudsman on the ground that (a) Respondent has already installed nine connections in the same premises, (b) Respondent uses pick and choose policy, (c) EDMC has already issued the Building Completion Certificate, (d) the CGRF failed to appreciate facts and submissions and passed the impugned order dated 04.08.2022.

And prayed to set-aside the impugned order dated 04.08.2022 passed by the CGRF and direct the Respondent to release a new connection.

7. The case was taken up for the hearing on 24,11.2022. During the hearing both the parties were present along with their Counsels/Representative. An opportunity was given to both the parties to plead their case at length.

8. During the hearing, the Appellant contended that there is no requirement to obtain a new building-completion-certificate (BCC) for the fourth floor separately because BCC had been issued in 2020 for the whole building earlier. Also, there is no issue of unauthorized construction. The Appellant further stated that the Respondent has already installed a number of connections to the buildings under the same situation in the vicinity of area and demanded the Respondent to provide the copies of BCC for those connections along with its written statement.

9. The Respondent reiterated the same as before the CGRF and written statement submitted in this office. I have gone through the appeal and written statement of the Respondent very minutely. I have also heard the arguments of both the parties. Relevant questions were asked and queries raised by the Ombudsman, Advisor (Engineering) & Advisor (Law) to get more information for clarity.

10. Upon consideration of the submissions made by both the parties, it apparently seems that the Appellant has constructed the fourth floor after issue of Completion-cum-Occupancy Certificate dated 05.09.2020 resulting increase in height beyond 17.5 meters. Also, stilt-parking found encroached during site visit by the officials of the Respondent. Regarding the Appellant's argument as to how she could be denied a connection when other premises in her locality in similar situation enjoy it. The Respondent has denied that all the referred connections had been provided as per prescribed rules and regulations on the basis of 'completion-cum-occupancy' certificate issued by SDMC (now MCD) or on the basis of Sixth Amendment of Delhi Electricity Regulatory Commission (DERC)'s Guidelines vide order dated 15.04.2021

11. Given the above exposition, no interference with the verdict of the CGRF is possible and appeal is hereby disallowed on grounds of safety considerations. Further, the Respondent is directed to verify all illegal connections granted to others in this locality in violation of building height parameters and disconnect those connections after serving fifteen (15) days notice. A detail compliance report must be submitted to this office on or before 01.01.2023 to enable further course of action.

12. The appeal stands disposed off accordingly.


(P. K. Bhardwaj)
Electricity Ombudsman
25.11.2022