

**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. 36/2024**

(Against the CGRF-BYPL's order dated 02.08.2024 in Complaint No. 43/2024)

**IN THE MATTER OF**

**Shri Manoj Kumar**

**Vs.**

**BSES Yamuna Power Limited**

**Present:**

Appellant: Shri Shanky R. Gupta, Authorized Representative, on behalf of the Appellant

Respondent: Shri Vijay Pal Rana, Sr. A.F.O, Ms. Chhavi Rani, Legal Retainer and Shri Akash Swami, Advocate, on behalf of BYPL

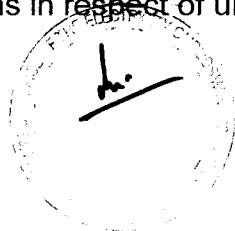
Date of Hearing: 13.02.2025

Date of Order: 14.02.2025

**ORDER**

1. Appeal No. 36/2024 dated 10.10.2024 has been filed by Shri Manoj Kumar through his authorized representative Shri Shanky R.S. Gupta, against the Consumer Grievance Redressal Forum – Yamuna Power Limited (CGRF-BYPL)'s order dated 02.08.2024 in Complaint No. 43/2024.

2. The background of the case is that the Appellant had applied for 1 kw load non-domestic electricity connection at Shop No.1, part of 1/4345, Old Plot No. 14, Ashok Marg, Ram Nagar Extension, Shahdara, Delhi -110032, vide Application No. 8006541256. This application was rejected by the Discom, on the basis of a MCD's list, identifying properties booked for unauthorized constructions under section 343 & 344 of DMC Act, 1957, vide their letter No.EE (B)-II/SH-N/2018/D-1064 dated 27.07.2018. The Appellant's address is listed at Sl. No.165 in the above said letter. Additionally, the Discom relied upon the Delhi High Court's order dated 20.12.2017 in the case of M/s Parivartan Foundation vs. SDMC, regarding non-release of connections in respect of unauthorized constructions.



Against this, the Appellant filed a complaint before the CGRF-BYPL on 12.01.2024 and submitted that the applied premises was neither sealed/booked nor he received any notice from the MCD. Even MCD themselves issued him a trade license for the premises in question and prayed to the CGRF to grant an electricity connection applied for.

3. The CGRF, in its order dated 02.08.2024, considered that the premises in question has been booked by the MCD due to unauthorized construction. Furthermore, the issuance of trade license by the MCD on 26.06.2021, does not rule out the fact that property remained booked by them. The Forum also relied upon Regulation Rule 10(3) – for a new connection wherein proof of ownership or occupancy is required and Regulation 11(2)(iv)(c) – stating the Licensee shall not sanction the load, if energization will be in violation of law of the DERC's Supply Code, 2017. It was also observed that the MCD's authority to issue directions under Section 343 or 344 of DMC Act, cannot be challenged before the Forum and the same may be challenged before the Constitutional Court. In the light of these considerations, the Forum rejected the Appellant's complaint, stating that for release of a new electricity connection, the Appellant has to submit a 'Building Completion Certificate (BCC)' from the Municipal Corporation of Delhi. It was also directed that if the complainant submits 'BCC', in future, the Discom should release him a new electricity connection subject to completion of commercial formalities.

4. Against this order, the Appellant filed a review petition on 10.09.2024 asserting that Discom had released numerous connections even though those properties /were included in the MCD's objection list. However, the Forum after analyzing the review petition, rejected the petition vide its order dated 30.09.2024 stating that they could not reconsider the matter under the pretext of a "Review".

5. Aggrieved by the CGRF's order dated 02.08.2024 & 30.09.2024, the Appellant filed this appeal, reiterating its submission as before the Forum with a request to set-aside the Forum's order in CG No. 43/2024 and Review Petition No. 13/2024, respectively, on consideration of the principles of natural justice and the material facts as cited in his appeal. Allegation of discrimination against CGRF and inaction for disconnection of other connections mentioned in MCD's list, besides inaction against erring Discom's officials were also raised.

6. The Discom in its submission dated 14.11.2024 reaffirmed its stand as presented before the CGRF. Furthermore, concerning the connections granted to other premises despite being under the MCD's objection list, the Discom submitted that disconnection notices were served for the connections bearing CA Nos. 152874823, 152908883 and 152884492, which were subsequently disconnected on 12.11.2024. The Discom further submitted that though the Appellant has relied upon MCD's trade license dated 28.06.2021 but the same does not establish that the building where connection applied for is not



booked by the MCD. Therefore, the fact of booking can only be asserted upon by providing legal, valid and verified BCC issued by MCD.

7. The appeal was admitted and initially fixed for hearing on 08.01.2025, which thereafter adjourned to 22.01.2025 and subsequently on 06.02.2025. Having regard to one other request received from the Appellant on 06.02.2025, the matter was deferred to 13.02.2025 for hearing. During the hearing, the Appellant was represented by Shri Shanky R Gupta, Authorized Representative. The Respondent was represented by their authorized representatives/Advocate. An opportunity was given to both the parties to plead their respective cases at length and relevant questions were asked by the Ombudsman and Advisors.

8. During the hearing, the Appellant reiterated the submissions as stated in the appeal and his request. The Appellant further alleged discrimination, inviting attention to the release of three other connections even after MCD booking of the building in 2018. The Appellant also referred to a reply sent on the Chief Minister of Delhi portal indicating that the action was taken for release of connections with due diligence which in fact was not the case

9. In rebuttal, the Respondent reasserted its written submission with respect to MCD objection. In response to a query regarding background for release of three connections till September-2019, satisfactory response could not be provided by the Respondent, even though the booking on the premises in 2018 was well within the knowledge of the Discom.

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

- (a) On account of MCD booking of the premises, communicated to the Discom vide letter dated 27.07.2018, the connection applied for by the Appellant stands rejected by the Discom and his complaint also dismissed by the CGRF vide its order dated 02.08.2024.
- (b) The specific objection by the Appellant about release of other connections in the building stands addressed by issue of notice dated 28.06.2024 to the three registered consumers Ms. Seema Aggarwal, Ms. Kusum Lata and Shri Vikas Sharma, for connections released on unauthorized constructions. Those connections also stand disconnected on 12.11.2024.
- (c) The three connections were released on 07.08.2019, 03.09.2019 and 22.07.2019 respectively, even though MCD booking was known to the Discom vide MCD's letter dated 27.07.2018. This approach on the part of Discom needs a thorough vigilance probe. Whether appropriate action has also been



taken in respect of the other connections mentioned in the list of 232 bookings, needs verification by the Discom in the light of the dictum in Parivartan Case. CEO of the Discom needs to evolve a proper monitoring mechanism in this regard.

- (d) The Appellant has relied upon a duly registered GPA in favour of Shri Manoj Kumar by Shri Amit Kumar on 04.11.2022. The GPA per se does not create any interest in property and does not convey any title (Suraj Lamp & Industries (P) Ltd. vs State of Haryana – SLP(C)13917 of 2009) decided by the Supreme Court of India on 11.10.2011. Moreover, the GPA has been executed by Shri Amit Kumar on the basis of an earlier GPA in his name by Shri Rajesh Kumar and two others, registered on 02.03.2019. Such GPA for the same property is not legally binding. Moreover, Regulation 10(3) has a heading “Proof of Ownership or Occupancy of the Premises”. While GPA is mentioned as a document, in the absence of any title deed or conveyance deed or possession letter etc., the GPA ipso facto has no relevance for ownership or occupancy.
- (e) The trade license issued on 28.06.2021 expired on 31.03.2022. The connection was applied during 2023, without a valid trade license on that date. One of the conditions for application for new connection as per DERC’s approved format is that “the building has been constructed as per prevailing bye-laws”. Thus, MCD’s BCC is required for release of the applied for connection.
- (f) Discom is bound by the law laid down by the Delhi High Court in Parivartan case, as well the law laid down by the Supreme Court on “Negative Equality”.
- (g) Since the trade license granted by the MCD, has already expired and can’t substantiate that the building is not booked, therefore, connection can only be given after submission of ‘building completion certificate’ by the Appellant.
- (h) The Nodal Officer of the Respondent and the CEO are the gate-way to monitor the cases of bookings as well as action by the Discom in the light of law settled by the High Court of Delhi and for non-release of connections on unauthorized constructions. The Discom is duty bound to follow the law of the land.

11. In the light of the above, this court directs as under:

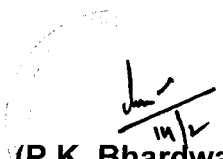
- (i) The CGRF’s order is upheld. Discom may release the applied for connection, on production of BCC from MCD, by the Appellant, as well as completion of other commercial formalities.



- (ii) CEO of the Discom may institute an enquiry into release of the three connections, mentioned in para '6' above, despite MCD booking. CEO may also direct the relevant officers to initiate action with respect to other properties mentioned in the MCD's order dated 27.07.2018.
- (iii) The result of enquiry in para (ii) above, be shared with this office in next 30 days.

12. This order of settlement of grievance in the appeal shall be complied within 15 days of the receipt of the certified copy or from the date it is uploaded on the website of this Court, whichever is earlier. The parties are 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  
14.02.2025