

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: 011-41009285 E.Mail elect_ombudsman@yahoo.com)

Appeal No. 47/2024

(Against the CGRF-BYPL's order dated 11.09.2024 & 14.11.2024 in Complaint No. 293/2024 and RA No. 15/2024 respectively)

IN THE MATTER OF

Smt. Afsari Begum

Vs.

BSES Yamuna Power Limited

Present:

Appellant: Shri Neeraj Kumar Counsel of the Appellant

Respondent: Shri Nishant Kumar Nain, Senior Manager, Shri Akshat Aggarwal, Legal Retainer and Shri Akash Swami, Advocate, on behalf of BSES-BYPL

Date of Hearing: 24.02.2025

Date of Order: 25.02.2025

ORDER

1. Appeal No. 47/2024 dated 25.11.2024 has been filed by Smt. Afsari Begum, R/o 3016-3017, Mezzanine Floor, Kucha Chellan, Daryaganj, Delhi – 110006, through her Advocate Shri Neeraj Kumar, against the Consumer Grievance Redressal Forum – Yamuna Power Limited (CGRF-BYPL)'s order dated 11.09.2024 & 14.11.2024 in Complaint No. 293/2024 & Review Application No. 15/2024, respectively.

2. The background of the case is that the Appellant, as the owner of the above cited premises had applied for electricity connection twice for the same premises. First time, she had applied for a non-domestic connection for the mezzanine floor vide Application No: 800683194 dated 06.03.2024. The second time, the Appellant applied vide Application No. 8006922065 on 24.04.2024 for release of a domestic connection at the same address. Both the applications were rejected by the Discom with the reason that (a) a connection already existing with Meter No. 35841810, (b) Fire Clearance was required since the building consisted of Ground + Mezzanine + Five Floors) with height more than 15 Meters

and (c) duplicate request for the same floor by the Appellant. Consequently, the Appellant filed a complaint before the CGRF-BYPL on 20.05.2024 contending that despite removal of all objections, the Discom had deliberately rejected her application and requested for the release of the connection in the interest of justice.

3. The Discom claimed that site visits were carried out on 08.03.2024 and on 30.04.2024, and it was found that the building is consisting of Ground + Six Floors, wherein five electricity connections already exist, including one domestic connection installed at the first floor. The details of the existing five connections are as under:

CA & Meter Nos.	Category	Name of the Registered Consumer	Floor(s)	Date of Energization
154180395/ 35841810	DX	Sh. Jamaluddin	First Floor	11.07.2023
154180398/ 35841816	DX	Sh. Faheemuddin	Second Floor	11.07.2023
154180397/ 35841812	DX	Sh. Jamaluddin	Third Floor	11.07.2023
154200480/ 35845783	DX	Sh. Jamaluddin	Fourth Floor	26.07.2023
100304529/ 35928299	NX	Ms. Krishna Devi	Not mentioned (but shown use for shops in Ground Floor in the report)	26.08.1976
No Details provided by the Discom			Fifth Floor	
No Details provided by the Discom			Sixth Floor	

4. The Discom further submitted that the Appellant sought a connection for the premises, where Shri Jamaluddin had earlier obtained a connection in July, 2023. Also, the height of the building is more than 15 meters, therefore, 'NOC' from the Fire Department was required. As a result, her request for a new connection was rejected, as the premises in question was already electrified. To substantiate its claim, the Discom submitted all the relevant documents viz; K No. file of Shri Jamaluddin, copies of bills and the Inspection Site Report, etc., which were taken on record by the Forum.

5. The CGRF-BYPL in its order dated 11.09.2024, determined that the complainant has not submitted any concrete proof in support of her claim that the applied premises is different from the first floor and the height of the building is less than 15 meters. Therefore, the Forum rejected the request for grant of a new connection.



6. The Appellant filed a review application against the order of the CGRF along with an Architect Certificate dated 24.09.2024 mentioning that the said building comprised of Ground Floor, Mezzanine, First to Sixth Floors and the height of the building from road level up to Third Floor is 15.0 Meter. The Forum dismissed her review application stated that the ground taken by the complainant was not covered under Regulation 37 - "Power to Review" of DERC (Guidelines for establishment of the Forum and Ombudsman for Redressal of Grievances of Electricity Consumers) Regulations, 2024 and Section 114 read with Order 47 Rule 1 of the Civil Procedure Code, 1908.

7. The Appellant, dissatisfied by the orders dated 11.09.2024 & 14.11.2024 of the CGRF-BYPL, has filed this appeal reiterating her stand as before the Forum. Additionally, she has requested for release of a new connection applied for, citing the principle of justice and equality under Article 14 of the Constitution of India.

8. The Discom, in its reply to the appeal vide letter dated 06.01.2025, reaffirmed its stand as before the Forum. In addition, the Discom submitted that there are two sets of the sale-deeds (General Power of Attorney) as details given below:

Floors	Date of Sale-Deed	Seller	Buyer
First Floor	05.08.2022	M/s Al Taj Mart Pvt. Ltd.	Ms. Rukhsana
Mezzanine Floor	10.05.2023	M/s Al Taj Mart Pvt. Ltd.	Ms. Afsari Begum

The Discom also submitted that a domestic connection (CA No. 154180395) in the name of Shri Jamaluddin had already been released, as per Regulation 10 of the DERC's Supply Code, 2017 for the applied premises. Initially, the appellant has applied for a non-domestic electricity connection for the Mezzanine floor but upon demand of the commercial formalities, she changed the category to a domestic connection, which is actually first floor. The Regulations stipulate that new connection can only be granted, if a separate dwelling unit exists. Since Shri Jamaluddin is not a party in the present appeal, hence, authenticity/validity of the title documents cannot be assessed. Moreover, scrutiny of the sale-deed documents reveals inconsistencies to the effect that in the first sale-deed dated 05.08.2022, the site plan shows the area as "First Floor", while another sale-deed dated 10.05.2023, shows it as "Mezzanine Floor", which is self-contradictory and not practically possible.

9. The appeal was admitted and fixed for hearing on 24.02.2025. 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 at length and relevant questions were asked by the Ombudsman and Advisors, to elicit more information on the issue.

10. During the hearing, the Advocate appeared for the Appellant reiterated her stand as in the appeal and the prayer. The Advocate submitted that the Appellant had applied for a connection on the Mezzanine Floor which was within the permissible height of 15 meters. The connection might be granted to her by giving benefit of sixth amendment of DERC Supply Code. He also asserted that four connections were already released in the same building during July 2023 and one other connection was an old one.

11. In rebuttal, the Advocate appearing for the Respondent reiterated its written submission. Advocate submitted that deficiency letter was issued with reference to the connection in the name of "Jamal Uddin" at the first floor. However, he conceded that if a separate Mezzanine Floor existed, the occupant was entitled to release a connection for separate existing unit. This aspect deserves consideration if separate dwelling units were found existing during site inspection. However, having regard to the nature of the building and mixed-use and the number of floors existing (G+6 floors), the height of the building became an issue. Therefore, Fire Clearance Certificate from Fire Department was required for releasing of the requisite connection.

It was pointed out by the Ombudsman that the benefit of the sixth amendment was not admissible to such building with mixed use nature. In the light of the stand taken by the Discom with respect to notices and action against other connections released in the building in violation of the law, the Discom was required to submit a Compliance Report to this office within one month.

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

- (a) The applied connection on Mezzanine Floor was rejected on ground that connection already exists on the same floor and fire safety clearance was also required due to building height being more than 15 Meters.
- (b) The CGRF considered the Site Visit Reports dated 08.03.2024 and 30.04.2024, which state that five connections exist in the building (Ground Floor + Six Floors). The CGRF concluded that there was no material to conclude that mezzanine floor was different from energized first floor.
- (c) One Shri Jamaluddin obtained connection on first floor on the strength of Sale-Deed dated 05.08.2022 by M/s Al Taj Mart Pvt. Ltd., in respect of first floor. One other Sale-Deed dated 10.05.2023 was executed in favour of Ms. Afsari Begum for mezzanine floor. Two sets of documents, according to the Discom for same area show first floor and mezzanine floor are same.



- (d) The issue of height more than 15 M in respect of the building is not in dispute. The Appellant only contends that the applied floor is within 15 M, as per Architect Certificate.
- (e) The documents submitted in this court as well as in the Forum, reveals that Ms. Rukhsana had purchased the first floor from M/s Al Taj (P) Ltd on 03.08.2022 and she had issued a 'NOC' in favour of Shri Jamaluddin or sold to Shri Jamaluddin.


Similarly, Ms. Afsari Begum had purchased same property (as mezzanine floor) of the same building from M/s Al Taj (P) Ltd on 04.05.2023. The Discom's site report shows that building consists of Ground + Six Floors, whereas Architect's report shows Ground + Mezzanine + Five Floors. Overall total floors mentioned are same. However, the Discom treated it as a first floor. As building in subject is ground + six floors/ground + mezzanine + five floors, therefore, height would definitely exceed more than 15 meters. Accordingly, 'NOC' from the Fire Department is required.

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

- (i) The order passed by the CGRF-BYPL is up-held.
- (ii) The Appellant is required to submit 'NOC' from the Fire Department for clearance of the applied connection.
- (iii) Discom may process release of connection in the applied premises if found different from the premises where connections already exist, after submission of the 'NOC' from the Department and completion of other formalities.
- (iv) Other connection released may be also reviewed, taking into account the height being more than 15 meters and the need for fire 'NOC'.

14. 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
25.02.2025