

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-cum-Fax No.: 011-26144979)

Appeal No. 49/2023
(Against the CGRF-BYPL's order dated 12.07.2023 and 19.10.2023 in Complaint No. 115/2023
and Review Application No. RA-14/2023 respectively)

IN THE MATTER OF

Shri Imran Khan

Vs.

BSES Yamuna Power Limited

Present:

Appellant: Shri Imran Khan, along with Shri Vinod Kumar & Shri Imran Siddiquie, Advocates & Ors.

Respondent: Shri Vipin Kumar Gautam, DGM, Ms. Shweta Choudhary, Legal Retainer and Ms. Ritu Gupta, Advocate, on behalf of BYPL

Date of Hearing: 07.02.2024

Date of Order: 09.02.2024

ORDER

1. Appeal No. 49/2023 dated 13.11.2023 has been filed by Shri Imran Khan, R/o 2808, Gali Shankar, Bazar Sita Ram, Delhi-110006, through his Advocate, Shri Vinod Kumar, against the Consumer Grievance Redressal Forum – Yamuna Power Limited (CGRF-BYPL)'s order dated 12.07.2023 and 19.10.2023 in Complaint No. 115/2023 and Review Application No. RA-14/2023 respectively.

2. The instant case is that the Appellant had applied in his name for twenty (20) new electricity connections at the above-cited premises as per the details mentioned below:



<u>No. of Connection applied</u>	<u>Floors where connection sought</u>
1	Ground Floor/Stilt Parking
5	For five shops on ground floor
2	For two flats on front side of first floor
3	For three flats on front side of Second floor
3	For three flats on front side of Third floor
3	For three flats on fourth floor
3	For three flats on fifth floor.

The Discom rejected all these applications on the ground of the premises being in MCD's objection list issued by *North Delhi Municipal Corporation (Sadar Paharganj Zone) vide No. D-331/EE(B)-II/City-S.P.Zone/2021 dated 02.03.2021 at S.N. 5, which mentioned that the U/C in front of Ground Floor, First Floor and Second floor along with projections on Municipal Land.* The Appellant submitted before the Forum that the building was constructed as per building bye-laws and the Building Completion Certificate dated 27.01.2023 issued by MCD Department was duly submitted to the Discom.

3. The Discom stated before the Forum that though the complainant had submitted a 'Building Completion Certificate', on the site visit, it was found that the premises was still sealed. Besides, there were also pending dues/outstanding against the premises. Therefore, until the premises is de-sealed by the competent authority and outstanding dues are cleared by the complainant against the disconnected connection, no connection can be granted. The Discom further submitted that the complainant has sought one connection for a parking area, whereas no parking area exists at the site. The Discom also wrote letters to MCD on 14.02.2023 and 22.03.2023, with regard to the validation of the BCC issued by them, but they have not responded.

4. In rejoinder dated April, 2023 to the reply by Discom, the Counsel for the complainant submitted that the Discom took a photograph of the other premises and also the outstanding dues did not pertain to the applied premises/building of the complainant.

5. The CGRF-BYPL, in its order dated 12.07.2023 stated that the complainant applied for new connections at property bearing No. 2808 which is booked by MCD vide letter dated 02.03.2021 in the central part of Delhi, whereas the sanctioned building plan produced on record was sanctioned from the Shahadra zone. The CGRF further elaborated Regulations 10(3) and 11(2)(iv)(c) of the DERC (Supply Code and Performance Standards) Regulations, 2017 for confirming the legal position for the grant of new connections. In response to the complainant's claim that electricity is a fundamental right, the CGRF quoted *M/s Parivartan Foundation vs.*



South Delhi Municipal Corporation & Others, case. The CGRF further mentioned that in case connections have been given to the buildings constructed in violation of law, appropriate steps in accordance with law shall be taken regarding those connections and referred to the High Court of Delhi's order dated 06.02.2020 in the W.P. (C) 2453/2019 – Ms. Azra vs. State (GNCT of Delhi). The CGRF rejected the Appellant's complaint on the grounds of safety and security.

Regarding the BCC dated 27.01.2023, submitted by the complainant, the CGRF noted that MCD had not confirmed the validity of the BCC, despite requests by the Discom.

6. The Appellant again filed a Review Application vide No. 14/2023 on 11.08.2023. After thorough examination, the CGRF-BYPL, concluded *that there were no grounds available for its intervention in the present review petition. In the guise of 'Review', it cannot entertain an appeal against earlier order of the Forum. Hence, the review, being devoid of merit as per the Regulation concerned, is not maintainable and is accordingly dismissed.*

7. Not satisfied with the CGRF's above-cited order, the Appellant preferred this appeal, reiterating its stand as submitted before the Forum. In addition, the Appellant submitted that the Discom relied on a single photo showing a sealed door without considering the fact that the premises is habitable and live connections are being used on the ground and first floors of the premises. In his support, copies of bills for live connections being used on the ground and first floor were also submitted. In fact, the Discom has filed copies of bills and photographs of some other sealed premises, and no effort was made to ascertain the facts.

Therefore, the Appellant prayed to direct the Discom to release the new connections as applied and to compensate the Appellant for physical and mental harassment due to the delay in the release of new connections.

8. The Respondent, in their written submission dated Nil to the appeal, reiterated the submission as before the Forum. In addition, the Discom submitted that to ascertain the status of the premises, the site was again visited on the direction of the Forum and found that a wall was constructed over the sealed lock on the door. As a consequence, the door with the sealed lock was not visible. The BCC submitted cannot be relied upon, as the verification sought from the MCD was not received. The Discom also submitted that as per BCC, the premises consists of six shops on the ground floor with three dwelling units each on the upper ground floor, i.e., the first to the fourth floor. Accordingly, there can be 21 electricity connections at the subject premises. At present, premises already has three electricity connections, i.e., one each for the ground, the first, and one without the floor mentioned on the bill. These connections are old and, in all probability, were not surrendered at the time of the new construction. As such, as on date, only 18 connections can be granted subject to the



fulfillment of all formalities. Further, new electricity connections are provided as per the Electricity Act and Regulations framed in respect thereto, i.e., the Delhi Electricity Regulatory Commission (Supply Code and Performance Standards) Regulations, 2017, but having regard to the MCD booking, the undertaking submitted at the time of seeking new connection was false. Regarding wrong bills, the Discom submitted that simultaneously there was more than one case pending in the name of Shri Imran Khan before the CGRF, which led to the intermixing of documents. This error was immediately rectified, and the correct bills were placed on record. However, it was wrong that photographs of some other premises were filed before the CGRF. In reply to the Appellant statement that the building is inhabited and has not been sealed, it was necessary for the Appellant to produce on record either the video of the complete building or photographs of each of the twenty (20) premises in the building. The Discom also mentioned that in terms of various judgements passed by the High Court of Delhi and the objection list circulated by MCD, they are refraining from granting fresh electricity connections and/or restoring electricity to the premises/building which are in the MCD objection list. Regarding existing connections, the same can be disconnected only by way of a joint operation to be carried out with MCD, Delhi Police, DJB, and the Discom, under the leadership of MCD, for which letters stand issued.

9. The appeal was admitted and fixed for hearing on 31.01.2024 but on the request of the Respondent, hearing was adjourned for 07.02.2024. During the hearing, the Appellant was present along with his Advocates and the Respondent was represented by its authorized representatives/Counsel. An opportunity was given to both to plead their respective cases at length.

10. During the course of hearing, Counsel for the Appellant contended that requisite connections have not been released despite submission of the Building Completion Certificate (BCC) issued by Central Zone of MCD, which had issued the deficiency letters for removal of objections. With regards to the Forum's observation, in its order dated 19.10.2023 at Point No. 7, in respect of submission of Sanctioned Building Plan was approved by Shahdara Zone, whereas premises falls in the Central Part of Delhi, the Counsel submitted that the sanctioned building plan filed by the Appellant was issued by the S.P. City Zone, who previously had booked the subject premises. The Counsel further submitted that even, BCC stands verified as per the portal of the MCD, in his support presented the print out of the same which was taken on record. In response to a query of the building status as to whether sealed or not, the Appellant admitted for MCD booking against unauthorized construction during initial construction of subject building but later on after completion of the construction they had obtained BCC from the MCD. The Appellant refuted any 'sealing' of building presently and stated that is being used for habitation.



11. In rebuttal, the Respondent reiterated its contention as submitted in written submission. With regard to another case mentioned in written submission and as referred to by the Appellant, the Discom submitted that there was confusion in 'BCC' of that building, which was later clarified by the MCD. Whereas, in the instant matter, though the status of 'BCC' is showing verified on the MCD portal, there is contradiction in 'Building Completion Certificate' and 'Building Sanctioned Plan'. As per BCC, there should be parking on the ground floor, but as per the Building Sanctioned Plan, (stilt) parking is not visible. The Discom further submitted that during the first site visit, the door was found sealed, but on the next visit, a wall was constructed in front of the door. Therefore, they have taken up the matter with MCD for verification on the BCC. But till date no response has been received from them. However, Appellant denies it and claims that there is parking for bikes available on the ground floor.

12. This court has heard both the parties, perused the appeal and written statement respectively. The Court has also gone through the relevant provisions of the Electricity Act, 2003 and DERC's Regulations, 2018. It is not in dispute that the MCD vide its communication dated 02.03.2021 requested the Discom to disconnect electricity supply at the premises 2808, Gali Shankar, Bazar Sita Ram, Delhi, on account of unauthorized construction in the form of ground floor, first floor and second floor along with projection on municipal land. Similar communications dated 05.04.2021 and 27.01.2022, were also sent to Discom for disconnection and letter dated 27.01.2022 also referred to unauthorized construction on third floor. On the other hand, the 'BCC' specifically mentions about submission of notice of completion and based on that it further certified that 'NOC' has been approved. For this reason, the Discom sent letters to MCD seeking clarification, which is still awaited.


13. Having taken all factors, written submissions and arguments into consideration, I am of considered opinion the Appellant removed deficiencies projected by the Respondent viz; (i) received 'BCC' from MCD (Issuance of BCC is available at the site of MCD), (ii) pending of dues were also clarified, (iii) parking space is available for motor-cycles behind the shops. Respondent has also written to MCD on two occasions for clarification about the issuance of BCC but MCD has not responded to the communication from them. In view of the above, the Court directs as under:

- (i) Respondent to send another communication to MCD giving 15 (fifteen) days for response about the issuance of 'BCC' and in case no response from MCD is received in given timeframe, it should be presumed that MCD has nothing to say. Connection be released on completion of requisite commercial formalities as per prevalent DERC's norms for non-domestic as well as domestic connections, adhering to fire safety norms as building consists of ground + five floors, with no stilt parking.



- (ii) CEO of the Discom is also directed to order an enquiry into the aspect of continuation of three (3) connections in the building in spite of MCD's objections during 2021 and 2022 and to take appropriate action as per prevalent rules.
- (iii) Action taken report be shared with this office within two months of this order.

The appeal is disposed off accordingly.


(P.K. Bhardwaj)
Electricity Ombudsman
09.02.2024