

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. 50/2024

(Against the CGRF-BYPL's order dated 09.10.2024 in Complaint No. 432/2024)

IN THE MATTER OF

Shri Mohd. Aftab Kheri

Vs.

BSES Yamuna Power Limited

Present:

Appellant: Shri Arfin Kheri alongwith Advocate Shri Neeraj Kumar

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

Date of Hearing: 17.02.2025

Date of Order: 18.02.2025

ORDER

1. Appeal No. 50/2024 dated 26.11.2024 has been filed by Shri Mohd. Aftab Kheri, R/o 3616, Ward No. 7, Katra Deena Baig, Near Lal Kuan, Delhi – 110006, through his advocate Shri Neeraj Kumar, against the Consumer Grievance Redressal Forum – Yamuna Power Limited (CGRF-BYPL)'s order dated 09.10.2024 in Complaint No. 432/2024.

2. The background of the case is that the Appellant had applied for three new domestic connections vide No. 8007050581, 8007050584 and 8007050585 for his property located at the aforementioned address on second, third and fourth floor, respectively. The Discom rejected these applications with the reason "MCD's NOC or BCC required and Enforcement Dues pending" vide their "intimation of deficiency" letter dated 08.08.2024. Against this, the Appellant filed a complaint before the CGRF-BYPL and asserted that the objections raised by the Discom were deliberate



and without any reason. The Appellant further submitted that he had removed all the objections raised by the MCD and requested for release of the connection.

3. The Discom, submission before the CGRF was that the Appellant had applied for multiple domestic electricity connections for the subject premises, which were denied on the basis of a communication from MCD vide its letter No. 19/EE(B)-I/C-SPZ/2023 dated 17.04.2023 regarding disconnection of water and electricity for the properties mentioned in the objection list. The Appellant was booked at Sl. No. 2, with his name, Mohd. Aftab Khairi/Naseer/Owner/Occupier. Keeping in view of the objection list circulated by the MCD, the Discom was refrained from granting new electricity connections. Consequently, no new connection could be granted till the Appellant obtains and submits a 'NOC/BCC' from the MCD. Additionally, the Discom submitted that the Appellant also needs to clear pending enforcement dues against the occupied premises. To support their claims, the Discom relied upon several judgements, already detailed in the CGRF's order dated 09.10.2024. It was further submitted that since the building structure was ground floor plus five floors (GF-NX&MZ to Four Floors), Fire clearance was also required due to building height being more than 15 meters (ground plus four floors including a mezzanine floor – business building).

4. The CGRF-BYPL, in its order observed that the building in question has been entirely booked by the MCD on multiple times and, therefore, for release of new electricity connections, the complainant has to submit a 'Building Completion Certificate' against the objection of MCD.

5. The Appellant, dissatisfied by the order dated 09.10.2024, passed by CGRF-BYPL, has filed this appeal on the following grounds:

- (a) The premises, in question, was booked for unauthorized construction on 03.03.2023 in four parts, i.e. A, B, C & D and, his premises is located in 'B' portion.
- (b) Subsequently, on 08.05.2023, the Assistant Engineer (B), City, SP Zone, MCD, passed an order in his favour.
- (c) The Discom has released a number of connections for the applied premises till date. Therefore, he has requested to release the connection in compliance with Article 14 of Constitution of India, which ensures equality before the law.

The Appellant has requested to set-aside the CGRF'BYPL's order dated 09.10.2024 and to pass an order for release of the applied new connections.



6. The Discom, in its written submission dated 18.12.2024 to appeal, reiterated the facts placed before the CGRF-BYPL. In addition, the Discom submitted that the MCD in its order dated 08.05.2023, categorically recorded that Mohd. Aftab Kairi (the Appellant) had requested a personal hearing, which was fixed on 11.04.2023 at 3 PM. However, he neither attended the hearing on schedule date & time nor submitted any reason for his absence. Consequently, the proceedings on 11.04.2023 were closed and further ordered that the entire property from ground floor upward had already been booked by the MCD vide various file numbers since 2009.

7. The appeal was admitted and fixed for hearing on 17.02.2025. 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.

8. During the course of hearing, the Advocate for the Appellant submitted that the building has four portions, i.e. A, B, C & D, which were initially a common property but later four portions were created. The Appellant is in possession of one portion in 'B' part of the property, which was purchased through a registered sale-deed on 28.03.2005. The Appellant mentioned that the unauthorized construction on the fifth floor has been demolished by him, and, therefore, no unauthorized construction exists there. The Appellant could not provide a satisfactory reply as to whether demolition of the unauthorized construction on his part, was brought to the notice of the MCD during he pendency of the proceeding before them in 2023 or thereafter, for release of closure report of BCC.

9. The Advocate for the Discom submitted that there is no MCD demarcation of the property as A, B, C & D, and no document has been submitted in this regard. The entire building stood included as unauthorized from time to time, and, therefore, show-cause notice was also sent by the MCD at the address of the Appellant. Advisor (Law) raised the issue that when the MCD in 2023 held the building as unauthorized construction, why no action was taken by the Discom, in terms of M/s Parivartan case. There was, however, no satisfactory reply to the query.

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

- a) The three applied connections were not released due to MCD booking of the premises. MCD issued demolition order on 08.05.2023, while holding the entire constructions in the building as unauthorized.
- b) It is clear from the documents placed on record that the address has four sets of separate/independent building, i.e. A,B,C & D. It is further clear




that part 'B' of the address in question had fifth floor and lift pit as unauthorized constructions. The Appellant has claimed that the unauthorized part has already been demolished by him.

- c) The various portions were booked from time to time during 2009, 2010 & 2020.
- d) Numerous connections appear to have been released by the Discom, before sending letter to CEO (BYPL) on 17.04.2023. These connections need to be reviewed in view of various part in various buildings in the property, under question has height above 15 meters.
11. In the light of the above, this court directs as under:
- (i) The order passed by the CGRF-BYPL is up-held.
 - (ii) In the light of the claim by the appellant that he had demolished the unauthorized construction, he is directed to apply for and obtain MCD closure report and apply afresh for release of connection along with the said report. The Discom will thereafter proceed to release the connection after completion of commercial formalities within a week.
 - (iii) The other connections released in the building, despite MCD booking be reviewed by the Discom for appropriate action, as per dictum in M/s Parivartan Case as well as requirement of fire clearance. The action taken report be shared within one month of receipt of order.
 - (iv) Action taken report be shared within four weeks on receipt of the order.

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
18.02.2025