



C A No. Applied for
Complaint No. 15/2020

In the matter of:

Nita Rani

.....Complainant

VERSUS

BSES Yamuna Power Limited

.....Respondent

Quorum:

1. Mr. Arun P Singh (Chairman)
2. Mrs. Vinay Singh, Member (Legal)
3. Dr. Harshali Kaur, Member (CRM)

Appearance:

1. Ms. Nita Rani alongwith her husband Mr. Bhagwati Prasad
2. Mr. Imran Siddiqi & Mr. B.B. Sharma, on behalf of the respondent

ORDER

Date of Hearing: 05th October, 2020

Date of Order: 16th October, 2020

Order Pronounced by:- Mrs. Vinay Singh, Member (Legal)

Briefly stated facts of the case are that the complainant applied for new connection, but the respondent company rejected her application for new connection.

It is also her submission that she purchased the property in July 2015 and since August 2015 she is trying for getting new connection at her premises no A-499, 4th Floor G.D. Colony, Mayur Vihar Phase-3, Delhi-96. Earlier the respondent company rejected her application for new connection as there were pending dues at the second part of the building. (A-499 is a 60 gaj plot which is further sub divided into two parts of 30 Gaj each).

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She again applied for new connection on 02.01.2020, this time again her application for new connection got rejected on the pretext of building height more than 15 meters. She also submitted copy of her application of new connection dated 07.03.2018 vide application no. 8003222435 which was rejected by the respondent on the basis of pending dues amounting to Rs. 2,71, 319/- and ELCB required to be installed as per DERC Guidelines.

Thereafter, she again applied for new connection on 01.01.2020 vide request no. 8004287067 this application also got rejected on the basis of ELCB required to be installed and requirement of Fire Clearance Certificate. Therefore, she requested the Forum to direct the respondent company for immediate release of the new connection.

Notice was issued to both the parties to attend the Forum on 30.03.2020; same was cancelled due to Covid-19. Again the matter was heard on 16.07.2020.

The respondent company submitted their reply that new connection of electricity can be provided as per DERC Supply code and performance standard Regulation 2017. The new connection was applied by the complainant at A-499, 4th floor, GD colony, Mayur Vihar, Ph-III, Delhi-96 on 01.01.2020 vide application no. 8004287067. Respondent further added that release of the connection was denied on the ground that the height of the building is 18.5 meter which is more than 15 meter and without stilt parking at the ground floor. Therefore fire safety clearance certificate is required to release the new connection.

It is also their submission that dues are also pending at the same premises vide CA No. 152492845 amounting to Rs. 32340/-, CA No. 400410122 dues amounting to Rs. 27319.19/- and CA no. 400546274 dues amounting to Rs. 85701/-. Accordingly deficiency letter was issued to the complainant on 06.02.2020.

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The matter was heard on 16.07.2020, when both the parties were present and complainant submitted she applied for new connection and same was not granted on the ground of pending dues and height of the building more than 15 meters. Complainant also submitted that respondent granted connection in the same building. It was also objected by the complainant that on what grounds

respondent released three connections in the same building. The respondent company also submitted their reply, but has not submitted details of the dues and on which building the connection was granted and who is the consumer of the said connection.

The matter was again heard on 24.07.2020, when husband of the complainant submitted that they applied for new connection in the year 2015, 2016, 2017 and 2018. They also submitted copies of his applications for new connection in all the four years and respondent's rejection letter on account of pending dues of other premises. Both the parties were directed to find amicable solution.

The respondent also submitted their additional reply stating therein that the adjacent building with the same address is built upto ground plus three floors which is less than height of 15 metres, so three connections were released on 24.03.2018. It is also their submission that the height of the building of the complainant is more than 15 metres. The applied building has three connections which were released before 2013.

On 04.08.2020, the Forum gave another opportunity to both the parties to solve the matter amicable. Thereafter numbers of hearing were given to respondent i.e. on 14.08.2020, 24.08.2020, 21.09.2020 and 05.10.2020 to resolve the matter amicably with the complainant, but the respondent failed to take any appropriate action.

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The matter was finally heard on 05.10.2020, when respondent argued that the complainant applied for electricity connection from year 2015 till year 2019, which was not granted as there were some outstanding dues and the complainant again applied for new connection in 2020 which was rejected on the pretext of building height more than 15 metres. Arguments of both the parties were heard and matter was reserved for orders.

The main issue in the present complaint is whether the connection can be granted or not.

We have gone through the submissions made by both the parties, from the narration of facts and material placed before us we find as under:-

- That the complainant applied for new connection every year since 2015. She applied for new connection in the year 2015, 2016, 2017, 2018, 2019 and 2020.
- Till the year 2017, the respondent rejected the application of new connection of the complainant on the pretext of pending enforcement bills and regular energy dues amounting to approximately Rs. 8,50,000/-
- In the year 2018, the complainant again approached for new connection the respondent revised the pending dues amount to Rs. 2,71,359/- and also asked for fire clearance certificate because of building height i.e. after enforcement of New DERC Regulations, 2018.
- Since 2015, the complainant always perused that she purchased this property in July 2015 and the dues are not pertaining to her premises. But respondent paid no heed to her requests.
- The complainant again applied for new connection vide request no. 8004287067 on 01.01.2020, but her application was again rejected by the respondent on three grounds i) ELCB not installed, ii) Fire Clearance Certificate required and iii) pending dues amounting to Rs. 3,89,360/-.

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- After receiving the rejection letter from the respondent, complainant approached the CGRF on 20.02.2020. Due to Covid-19 and worldwide lockdown, the hearing in the matter could not be conducted by the Forum. The first hearing given to the complainant was on 16.07.2020.
- During the course of hearing the Forum asked for statement of account of all the pending dues at the premises of the complainant. The respondent in their written submission submitted that they have removed the pending dues objection. They also submitted that the dues were wrongly mentioned in the rejection list and now they have removed the dues objection. Now only one objection of requirement of Fire Clearance Certificate.
- The complainant suffered huge financial loss from 2015 till date due to negligence of the respondent.

We are of the considered opinion that there is no fault on the part of the complainant because she regularly applied for new connection since August 2015 till 2020. But the respondent always rejected her application for new connection from 2015 till 2017 on the ground of pending dues at her premises. After enforcement of DERC Regulations 2017, the respondent added another objection of Fire Clearance Certificate because building height is more than 15 metres and without stilt parking alongwith pending dues.

When the complainant approached the Forum the respondent removed one objection of pending dues at the premises but the objection regarding Fire Clearance Certificate remains. Due to the wrong mentioning of dues by the respondent, the complainant was deprived of the essential requirement of electricity and seriously harassed by the respondent. Complainant is staying in rented accommodation since 2015 due to the mistake of respondent of wrong mentioning of dues and not releasing the electricity connection to the complainant. Till 2017, there were no Regulations regarding the Fire Clearance Certificate and height of the building.

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The Electricity and water is essential requirement for human being to run a normal life. As decided by Himachal Pradesh High Court, in Madan Lal Vs. State of Himachal Pradesh 2018 SCC online HP 1495 decided on 22.10.2018. Water and electricity supply a part of right to life under Article 21 of the Constitution of India.

Article 21 says, no person shall be deprived of his life and personal liberty except according to the Procedure established bye-laws". This article mentions two basic terms life and personal liberty.

The Forum is abide by DERC Regulations, 2017 and cannot grant electricity connection to the complainant. But complainant has every opportunity to enjoy the electricity, if the respondent is sincere in dealing their responsibilities and duties.

DERC notification dated 31.05.2019, which clearly states that , it is clarified that the distribution licensee for release of electricity connection shall not insist for fire clearance certificate for the residential buildings having height upto 15 metres without stilt parking and 17.5 meters with stilt parking. The measurement of the height of the building shall be made in accordance with clause 1.4.16 and 7.19 Unified Building bye-laws for Delhi 2016.

M S Azra Vs. State Govt. of NCT and ors. WP (C) 2453/2019 order dated 06.02.2020. The complainant filed a writ petition to get the electricity connection on the second floor, premises no. 3418, Gali Maliyaan, Bazar Daryaganj, Delhi. Connection was rejected by the respondent 2 & 3 because of the building height is more than 15 metres. Fire clearance certificate is required. Hon'ble High Court opined that "it is not possible for this court to direct respondent 2 & 3 to grant the electricity connection in the absence of Fire Clearance Certificate and no dues."

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As per Chapter III of DERC Regulations 2007, Regulation 15 New Connections, Sub-Regulation (iv) which is narrated below:

A new connection to such sub-divided premises shall be given only after the share of outstanding dues attributed to such sub-divided premises is duly paid by the applicant. **A Licensee shall not refuse connection to an applicant only on the ground that dues on the other portion(s) of such premises have not been paid, nor shall the Licensee demand record of last paid bills of other portion(s) from such applicants.**

For the mental agony and harassment faced by the complainant due to the negligence of the respondent of her right to get the electricity and not releasing the connection as per **DERC Regulations 2017, Regulation 11 (v) (a) regarding compensation for delay in energizing connection:-**

(a) In case the Licensee fails to provide the connection to an applicant within the prescribed time lines, the Licensee shall be liable to pay the applicant, compensation as specified in Schedule-I of the Regulations.

The Forum is abide by the DERC Regulations and cannot order to release the connection to the complainant but the Forum can grant compensation to the complainant for the mental and physical harassment and deprivation of her right to life and personal liberty and enjoying her own property due to the negligence of the respondent. Therefore, the respondent (Licensee) is liable to pay compensation to the complainant for failure to meet the Guaranteed Standards of Performance as specified in Schedule I, Rule 1 of the Regulations as under:-

- 1) Abnormal delay in release of connection in electrified area :- In fact this delay solely attributable to the respondent, resulted in depriving the complainant from basis necessity like electricity and now with change in Regulations, the complainant is likely to suffer even more.

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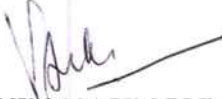
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- 2) Raising erroneous/false demands (bills) against previous arrears which deprived the complainant from his genuine claim/right for electricity connection for almost five years besides mental agony/harassment.
- 3) The Forum is abide by the DERC Regulations and cannot order to release the connection to the complainant but the Forum can grant compensation to the complainant for the mental and physical harassment and deprivation of her right to life and personal liberty and enjoying her own property due to the negligence of the respondent. Therefore, the Forum award complainant compensation as per Schedule I, Rule 1 for not releasing the connection amounting to Rs. 56040/- (since 18.03.2018 till 07.10.2020) and Rs. 1,00,000/- awarded for wrong/defective demand (bills) given to her by the respondent and mental agony and physical harassment thus total compensation payable is 156040/-.

The case is disposed off as above.

The compliance should be reported within 30 days. The order is issued under the seal of Consumer Grievance Redressal Forum (BYPL).


(HARSHALI KAUR)
MEMBER (CRM)


(VINAY SINGH)
MEMBER (LAW)


(ARUN P SINGH)
CHAIRMAN