



**CA No. Applied for  
Complaint No. 33/2020**

**In the matter of:**

Rajiv Gupta .....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. Mr. Rajiv Gupta alongwith his counsel Mr. Afzal
2. Mr. Imran Siddiqi & Mr. B.B. Sharma, on behalf of the respondent

**ORDER**

Date of Hearing: 05<sup>th</sup> October, 2020

Date of Order: 07<sup>th</sup> October, 2020

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

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

It is also his submission that he applied for five new connections vide order no. 8004279367, 8004277941, 8004278206, 8004280520 and 8004280523 at H.No. 230/15, F, Gali No. 7 & 10, Railway Colony, Mandawali, Delhi-110092, which the respondent rejected on the pretext of building booked by EDMC.

*Harshali Kaur*

*Imran Siddiqi*

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He further submitted that it's not his building which is booked by EDMC it is the adjoining building which is booked by EDMC and also submitted report from EDMC clearing the premises number. Therefore, he requested the Forum to direct the respondent company for immediate release of the new connections.

Notice was issued to both the parties to attend the Forum on 14.08.2020.

Matter was heard on 14.08.2020, when respondent filed their reply. Complainant also submitted EDMC certificate regarding completion of property. Respondent was directed to release the connection if the complainant has already filed relevant documents and respondent will file complete report.

The respondent company submitted their reply that new connections of electricity can be provided as per DERC Supply code and performance standard Regulation 2017. The new connections were applied by the complainant vide request no. 8004277941, 8004278206, 8004280520, 8004280523 dated 26.12.19. The site of the complainant was visited on 30.12.19, the application for grant of new connection was rejected for technical feasibility reason as the height of the building is found more than 15 metres (16.30 metre) without stilt parking at ground floor. It was also found that there is existence of shutter panel besides a temporary gate at ground floor, due to which there is apprehension that later the ground floor might be used for purpose other than parking.

Respondent further added that the property is in EDMC u/c objection list; applicant has submitted the EDMC letter in support mentioning that the subjected property was booked in the name of Sh. Kuldeep and not booked against Sh. Rajiv Gupta (the complainant). Address of the property booked is same irrespective of the person against whom it is booked.

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Matter was again heard on 24.08.2020, when complainant filed EDMC certificate regarding clearance of fire safety. Respondent raised objection regarding pole encroachment. Forum directed both the parties to hold joint inspection. Matter was adjourned to 28.08.2020.

Joint inspection report dated 26.08.2020 stated that site was visited and it was found that the construction over pole no. LNR M318, LTAB conductor running touching to the premise. Connection can be given after providing proper clearance from BSES network.

- Distance from pole base to building base is 0.459 metre.
- Horizontal distance from top of pole to building:- Pole is inside the projected roof nearly 0.5 metre.
- Vertical distance of pole to building roof is approximately 0.5 metre.

The complainant also submitted his written submissions stating therein that initially respondent raised objection related to building height more than 15 metres, thereafter respondent raised objection that building is booked by EDMC. The complainant filed completion certificate/NOC from EDMC. Now the respondent has raised new objection of pole encroachment. As far as pole encroachment is concerned the pole is admittedly 0.5 metres away from the building. The said pole is electrified through LTAB cables which does not require more than 0.5 metre distance from the nearest construction. Complainant also submitted that the respondent recently energized connections where pole is under the building in the same locality.

The complainant also submitted copies of bills and photographs of Mr. Pranshu Sharma CA No. 152082057, at House no. 230/25-B/3, Third Floor, Gali No. 9, Railway Colony, Mandawali, Fazalpur, Delhi-110092 energized on 03.02.2017 and the balcony of the building is touching the pole. Second connection to Mr. Dhruv Kumar Tuli CA NO. 152959366, house no. 32, FF, RHS-I, Extension Laxmi Nagar, Near Main Market, Delhi-110092 energized on 19.11.2019 and the pole is inside the balcony of the premises.

*Pranshu Sharma*

*Dhruv Kumar Tuli*  
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The matter was again heard on 21.09.2020, when complainant was directed to file affidavit alongwith indemnity bond that this property belongs to whom either to the complainant or to Mr. Chandan Ram (and what is the relation between Mr. Chandan Ram and the complainant) and also clarify about Mr. Kuldeep, as per the letter dated 21.02.2020 whose name the property is booked by EDMC as the address 230/15 (part), Gali No. 7, Railway Colony vide file no. 501/B/UC/Sh/S/2019 dated 07.08.2019. Complainant also to clarify in which he is seeking for connection only there is a difference in the address of 230/15 F, Gali No. 7 & 10, Railway Colony, Mandawli, Delhi.

Respondent also submitted their written submission stating therein that the complainant applied for new connection on 26.12.2019 - Site was inspected on 30.12.2019, at the time of inspection it was mentioned in IR that MRO (meter removal) required and parking affidavit required which is submitted by the consumer. Thereafter the case was put up for final punching then backend staff check EDMC list before making demand note and it was found that premises is under EDMC objection. Same is updated in rejection letter that consumer need to provide Fire clearance / safety certificate. Further, it is clearly mentioned in rejection in case any objection consumer can visit division office within 07 days whereas in the mean time we have re inspected the site and found pole inside the premises.

The matter was finally heard on 05.10.2020, when complainant filed affidavit and indemnity bond and the respondent also filed one submission. Arguments of both the parties were heard and matter was reserved for orders.

Affidavit and Indemnity Bond: the complainant has submitted in para no. 4, that the father of Sh. Chandan Ram partitioned the said property of 200 sq. yards into four parts and out of 4 parts, 3 parts were sold to different persons and one part is in the possession of Sh. Chandan Ram himself.

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.Para No. 5 states that the father of Sh. Kuldeep had purchased one portion of 50 sq. yards from the father of Chandan Ram which is situated in Gali No. 7 & 8 and that portion is different from the property of the deponent and the portion of Sh. Kuldeep is booked by EDMC.

The main issue in the present case is whether the connection can be granted to the complainant 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 that the respondent raised different objections at different point of time and also respondent is granting connections to above mentioned premises of Pranshu Sharma and Dhruv Kumar Tuli by overlooking all the laws.

Joint inspection was conducted by both the parties, report filed by the respondent which shows there is sufficient distance from pole to the premises of the complainant (this is itself admitted by the respondent in their joint inspection report) and the EDMC has granted the occupancy certificate and mentioned the site has been inspected with reference to the Building Bye-laws, Master Plan Delhi provisions, hygienic and sanitary conditions inside and in the surroundings and is declared fit for occupation. For the fire safety same has been based on the clearance given by the Chief Fire Officer, Government of NCT of Delhi.

As per the Provision of **Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010, Regulation 60, narrated below**  
**60. Clearance from buildings of lines of voltage and service lines not exceeding 650 volts.**-(1) An overhead line shall not cross over an existing building as far as possible and no building shall be constructed under an existing overhead line.

  
  
  
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(2) Where an overhead line of voltage not exceeding 650 V passes adjacent to or terminates on any building, the following minimum clearance shall be maintained from any accessible point, on the basis of maximum sag, shall be as follows:-

(i) for any flat roof, open balcony, verandah roof and lean to roof -

(a) when the line passes above the building a vertical clearance of 2.5 meters from the highest point, and

(b) when the line passes adjacent to the building a horizontal clearance of 1.2 meters from the nearest point, and

(ii) for pitched roof-

(a) When the line passes above the building a vertical clearance of 2.5 meters immediately under the line, and

(b) When the line passes adjacent to the building a horizontal clearance of 1.2 meters.

(3) Any conductor so situated as to have a clearance less than that specified above shall be adequately insulated and shall be attached at suitable intervals to a bare earthed bearer wire having a breaking strength of not less than 35 kg.

(4) The horizontal clearance shall be measured when the line is at a maximum deflection from the vertical due to wind pressure.

(5) Vertical and horizontal clearances shall be as specified in Schedule X.

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 by-laws". This article mentions two basic terms life and personal liberty.

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After going through above mentioned all the pleas, we are of opinion that

1. The respondent's first objection was that the premises are booked by EDMC, but the complainant submitted EDMC clearance certificate and also Fire Clearance Certificate (mentioned in EDMC report).
2. The second objection raised by respondent was that the service pole is inside the premises. To which the site was got inspected and as per inspection report of the respondent they themselves admitted that the pole is inside the projected roof nearly 0.5 metre and vertical distance of pole to building roof is approximately 0.5 metre. The said pole is electrified through LTAB cables and as per CEA Regulation 60 (3), the respondent has released/energized many connections on LTABC lines where clearances are much lesser. However, the complainant shall submit undertaking for providing all necessary help and shall also bear all costs in case pole is damaged and requires replacement. *in future*
3. Respondent is directed to release the connection to the complainant within seven working days from the date of receipt of this order after completing all commercial formalities and submission of undertaking as per point 2 above.
4. The respondent is also directed to file compliance report in the matter.

The case is disposed off as above.

*Harshali*  
9.10.20  
(HARSHALI KAUR)  
MEMBER (CRM)

*Va*  
(VINAY SINGH)  
MEMBER (LAW)

*Arun*  
(ARUN P SINGH)  
CHAIRMAN