



C A No. 151039534
Complaint No. 52/2021

In the matter of:

Komal BhardwajComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

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

Appearance:

1. Mr. Vinod Kumar, Counsel of the complainant
2. Mr. Imran Siddiqi, On behalf of BYPL

ORDER

Date of Hearing: 30th June, 2021

Date of Order: 01st July, 2021

Order Pronounced by:- Mr. Arun P Singh, Chairman

Briefly stated facts of the case are that the respondent company refused to shift the pole and transformer situated in front of the house of the complainant.

The complainant further submitted that she is purchased house no. 150-151, HS Block, Bhola Nath Nagar, Shahdara, Delhi-32 on 05.11.2019 and already an electricity connection vide CA No. 151039534 in the name of Rahul Tomar is installed in the premises.

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She further submitted that an electricity pole and a transformer is installed in front of her premises which cause hindrance in entry and exit from the premises. Therefore, she requested the Forum to direct the respondent for shifting of electricity pole and transformer.

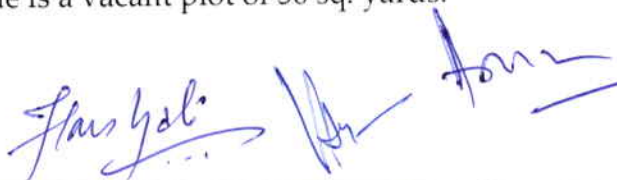
Notices were issued to both the parties to appear before the Forum on 23.04.2021.

Due to an upsurge in Covid-19 second wave hearings in the Forum could not be conducted during the period 20.04.2021 to 10.06.2021.

The respondent submitted their reply stating therein that the applicant has no locus to file the present complaint as the Forum has jurisdiction to deal with the complaints which are filed by the complainant. It is also their submission that the complainant is not a consumer of the respondent and as such has no locus standi to file any complaint before the forum and as such the present complaint cannot be tried or adjudicated by the Forum. It was also their submission that premises in issue is not having any electricity connection and the connection bearing CA no. 151039534 which was installed in the said premises on 08.03.2014 has been disconnected on 20.01.2021, i.e. before filing the present complaint.

Respondent further added that present complaint is not maintainable as it is a case of unauthorized construction and illegal encroachment. Facts are as under:

- i) The present complaint is in respect of transformer and pole situated near property no. 150/151, HS Block, Bhola Nath Nagar, Near Ram Lila, Delhi-32.
- ii) Complainant purchased said property along with Smt. Santosh Bhardwaj vide sale deed dated 06.11.2019. As per the said sale deed the property in issue is a vacant plot of 50 sq. yards.

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- iii) That on the said plot one building has been constructed in an unauthorized manner as a consequence whereof the substation situated at Aggarwal Bhawan, Shalimar Park, Bhola Nath Nagar, Delhi-110032 and pole bearing no. B-253 which has been existing since the period of erstwhile DVB have been illegally encroached upon which is illegal.
- iv) That respondent issued notices dated 17.12.2020 to Sh. Rahul Tomar, Sh. Sudhir Tomar and Ms. Daya Garg and also to the complainant on 02.03.2021. Through the said notices the addresses were asked to remove the illegal construction failing to which they were informed that legal action would be taken against them including the action of removal of illegal construction with the help of police and EDMC and other administrative and executive bodies, at their cost, risk and consequences.
- v) The complainant and other occupants of the premises failed to remove the illegal construction and adhere to the safety norms as duly provided under Regulation 60 & 61 of the Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations 2010 and Section 53 & 68(5) read with Section 161 of the Electricity Act, 2003 and as duly detailed in the aforesaid notices.
- vi) Legal notices were served to Sh. Rahul Tomar, Sh. Sudhir Tomar and Ms. Daya Garg on 14.01.2021. Complainant was also served legal notice on 17.03.2021. Copy of the said letters was also issued to SDM Shahdara, EDMC and SHO, PS Farsh Bazar. The complainant in her capacity of co-owner of the property in issue who on account of rampant illegal construction has encroached upon the substation and pole of respondent. Forum should direct complainant to remove illegal construction and remove the encroachment around the transformers and pole of the respondent.

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- vii) It is submitted that in any case the transformer, pole etc. can be shifted only in case plaintiff arranges for alternate right of way (land/space) as per requirement of Regulation 24 of the supply code.

The matter was heard on 18.06.2021, when respondent filed their reply. Respondent raised objection that the complainant is not the consumer. So, one more opportunity is given to the complainant to prove that he is the consumer in this case and file all the related documents.

The complainant submitted his written submissions stating therein that she is owner of residential property bearing no. 150-151, HS block, Bhola Nath Nagar, Shahdara, Delhi-32. Earlier three electricity meters were installed vide CA No. 100769145 disconnected on 21.01.2021, CA No. 151039534 disconnected on 20.01.2021 and 151039536 disconnected on 20.01.2021. Complainant applied for construction in the office of EDMC and concerned department passed the property map vide request no. 10079973. Complainant applied for new temporary connection and respondent issued new connection and installed the new meter vide CA No. 351042210 on 23.02.2021. Officials of the respondent removed the temporary meter on 24.03.2021 without any reason after filing his complaint in the forum.

The respondent company also submitted their written submission stating therein that the complainant filed the present complaint in the Forum on 19.03.2021 whereas the notice of disconnection was issued on 05.03.2021. The electricity connection of the complainant was disconnected on 24.03.2021.

Respondent further added that the present complaint is based on the premise that the complainant vide her complaint dated 25.02.2021 requested respondent to shift the transformer and pole in issue. As no action was taken on the said complaint as such the present complaint has been filed.


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The complainant claiming herself to be user of the electricity connection registered in the name of Rahul Tomar which as per the complainant herself was disconnected on 20.01.2021. The said connection in the name of Rahul Tomar was for domestic purposes and was not a temporary connection. Temporary connection was granted on 23.02.2021. Respondent further added that complainant had not approached respondent for resolution of her dispute in her capacity as consumer of the respondent.

As per the complainant the construction plan has been approved by EDMC vide request no. 10079973. However, the site plan which is allegedly approved and the date of approval are concealed with sole intend to mislead the Forum. The said request is in respect of property bearing no. 152-153 whereas the complaint is in respect of construction carried out at property bearing no. 150-151. The respondent has also filed complaint before STF (Hon'ble Supreme Court appointed committee) on 27.05.2021.

Regarding shifting of transformer and pole:- The complainant has no locus to seek shifting as admittedly the transformer and pole in issue is not on land owned by her, it is submitted that in any case she has to arrange alternate right of way (land/space) as per requirement of Regulation 24 of the Supply Code.

Respondent also added that the complainant and her family members have indulged in illegal construction and have encroached upon the sub-station and pole of respondent as such the respondent has intimated the process of filing of suit which due to Covid cannot be filed physically. The same would be filed within a day or two.

The matter was finally heard on 30.06.2021, when both the parties submitted written submissions. Respondent also submitted that they have filed an

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application before STF (Special Task Force) and to the SHO, Police Station and one notice to the complainant, regarding the encroachment and illegal construction in the public land and the transformer is of the time of DVB. Complainant raised objection in this regard, but the complaint of the complainant not mentioned anywhere that this land belongs to her and in the unregistered sale deed also is shown as vacant land. However, during hearing it was claimed that the transformer/line was on her property. Arguments of both the parties were heard and matter was reserved for orders.

That the complainant was registered consumer vide CA No. 351042210, on the date of filing of the complaint. However, she moved the application with bill copy of CA No. 151039534 in the name of Rahul Tomar. After complaint filed in the Forum on 19.03.2021, the respondent disconnected the connection having CA No. 351042210 in her name on 24.03.2021, then she preferred additional relief for restoration of the connection, hence the complainant is a consumer and this application before SHO, PS Farsh Bazar and STF was moved by the respondent in May 2021, i.e. after filing of this complaint before CGRF, thus, the present matter is within the jurisdiction of this Forum.

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 complainant has mentioned in her application also that the transformer and poles are in front of her premises, but during hearing on 30.06.2021, it was claimed it is in her property but that is not supported by the property documents in her name. Anyway, we want to address main issue regarding electrical safety, for which there is remedy available in the DERC (Supply Code and Performance Standards) Regulations 2017 and CEA (Measures relating to safety and electric supply) Regulations 2010.

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Regulation 24 of the DERC Supply Code 2017, reproduced below:-

24. Procedure for shifting electric line or electrical plant of the Licensee.-

- (1) The owner of the land or his successor in interest, who has given right of way for the construction of an existing electric line or electrical plant over, under, along, across, in or upon the said land, may apply for shifting the electric line or electrical plant to any other portion of his land for genuine purposes:
- (2) The application for shifting the electric line or electrical plant shall be submitted to the Licensee.
- (3) On receipt of the application, the Licensee shall inspect the site and assess the technical feasibility of the proposed shifting.
- (4) The request for shifting an electric line or electrical plant shall be granted only if:- (i) the proposed shifting is technically feasible. and
(ii) the owner of the land or his successor in interest gives consent in writing to shift the electric line or electrical plant to any other portion of his land or to any other land owned by him or any alternate right of way to be arranged by him for shifting the electric line and the electrical plant and
(iii) the owner of the land or his successor in interest shall take necessary permission/approval for road cutting or right of way, if required.
(iv) the applicant remits the applicable charges required for shifting the electric line or electrical plant.
- (5) The Licensee shall shift the electric line or electrical plant, if the conditions specified in sub-regulation (4) are complied with by the applicant.

Also Regulation 63 of CEA Safety Regulations 2010, narrated below:

Regulation 63. Erection or alteration of buildings, structures, flood banks and elevation of roads.-

- (1) If at any time subsequent to the erection of an overhead line, whether covered with insulating material or not, any person proposes to erect a new building or Structure or flood bank or to raise any road level or to carry out any other type of work whether permanent or temporary or to make in or upon any building, or structure or flood bank or road, any, permanent or temporary

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addition or alteration, he and the contractor whom he employs to carry out the erection, addition or alteration, shall give intimation in writing of his intention to do so, to the supplier or owner and to the Electrical Inspector and shall furnish therewith a scale drawing showing the proposed building, structure, flood bank, road or any addition or alteration and scaffolding thereof required during the construction.

(2) On receipt of such intimation, the supplier or owner shall examine,-

(i) whether the line under reference was laid in accordance with the provisions of these regulations and any other law;

(ii) whether it is technically feasible;

(iii) whether it meets the requirement of Right of Way (ROW);

(iv) whether such person was liable to pay the cost of alteration of the overhead line and if so, send a notice without undue delay, to such person together with an estimate of the cost of the expenditure likely to be incurred to so alter the overhead line and require him to deposit, within thirty days of the receipt of the" notice, with the supplier or owner, the amount of the estimated cost.

(3) thereof shall If such person disputes the cost of alteration of the overhead line estimated by die supplier or owner or even the responsibility to pay such cost, the dispute may be referred to the Electrical Inspector whose decision be final.

(4) The Electrical Inspector shall estimate the cost of alteration of overhead line on the following basis, namely:-

(i) the cost of material used on the alteration after crediting the depreciated" cost of the material which shall be available from the existing line;

(ii) the wages of labour employed in affecting the alteration;

(iii)supervision charges to the extent of-fifteen per cent of the wages mentioned in sub clause (ii); and charges incurred by the supplier or owner in complying with the provisions of section 67 of the Act, in respect of such alterations.

(5) Any addition or alteration to the building or structure shall be allowed only after the deposit of such estimated cost to the supplier or owner.

(6) No work upon such building, structure, flood bank, road and addition or alteration thereto shall be commenced or continued until the Electrical 8 of 9

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Inspector has certified that the provisions of regulation 58, 60 and 61 should not be contravened either during or after the aforesaid construction: Provided, that the Electrical Inspector may, if he is satisfied that the overhead line has been so guarded as to secure the protection of persons or property from injury, certify that the work may be executed prior to the alteration of the overhead line or in the case of temporary addition or alteration, without alteration of the overhead line.

(7) The supplier or owner shall, on receipt of such deposit, alter the overhead line in such a way that it does not contravene the provisions regulation 58, 60 and 61 either during or after such construction within two months from the date of such deposit or within such longer period as the Electrical Inspector may allow.

Accordingly, both parties are directed to approach the Electrical Inspector for necessary decision in the matter.

Regarding unauthorized construction, if any, the respondent is free to take up the matter with EDMC, Police or may prefer an application before competent authority.

It is further directed that the temporary Electricity connection having C.A. No. 351042210 in the name of complainant, for construction purpose be restored only after getting clearance from the Electrical Inspector.

No order as to the cost. A copy of this order be sent to both the parties and file be consigned to record room thereafter.

The order is issued under the seal of CGRF.

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