



C A No. Applied for
Complaint No. 169/2022

In the matter of:

BhagwantiComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

1. Mr. P.K. Singh, Chairman
2. Mr. Nishat Ahmed Alvi, Member (CRM)
3. Mr. P.K. Agrawal, Member (Legal)
4. Mr. S.R. Khan, Member (Technical)

Appearance:

1. Mr. Vinod Kumar, Counsel of the complainant
2. Mr. Imran Siddiqi, Ms. Ritu Gupta, Ms. Shweta Chaudhary & Ms. Amita Sharma, On behalf of BYPL

ORDER

Date of Hearing: 13th December, 2022

Date of Order: 03rd January, 2023

Order Pronounced By:- Mr. Nishat Ahmed Alvi, Member (CRM)

1. As per complaint, the complainant applied for new electricity connection, in her upper floor of the premises bearing no. 775, R.R. Block, Naveen Shahdara, Delhi-32, vide request no. 8005707900 on dated 26.05.2022. In response OP issued deficiency letter, thereby raising deficiency as ownership dispute/court case. As per complainant deficiency being removed, hence, connection may be released. But OP instead of releasing connection, raised another deficiency

Seeth *SP* *L* *H*

Complaint No. 169/2022

of MCD objection and rejected her application on this ground. This ground was taken later on by way of email dated 26.07.2022. Complainant also states that earlier complainant was having a connection in her premises but same was disconnected on her request.

2. After notice, OP by filing its reply states that as per EDMC letter no. EE (B)-11/SH (S)/2019/D-850 dated 18.12.2019 the applied premises, from stilt to third floor, are booked by MCD for unauthorized construction with remarks u/c in deviation against SBP no. 10056911 dated 07.12.2018. Reply also states that connection vide CA No. 152974727 was released on 22.11.2019 while MCD objection letter was received thereafter on 18.12.2019. Accordingly, deficiency letter was issued.
3. In rebuttal complainant by filing her rejoinder first of all taken plea of Regulation 11 (5) of DERC Regulations 2017 thereby stating that OP is bound to take all objections of deficiencies in one go only and shall not raise any additional/other objection/deficiency later on by way of second deficiency letter. It is also apprised by way of replication that already four connections had been energized by the OP in the said premises no. out of which one connection vide CA No. 152974727 had been supplying electricity in the applied premises itself. However, the same was disconnected by OP on the request of complainant herself for the reason that the same was lying vacant for about six months. This is the very premises complainant again asking for electricity connection therein. It is also stated in replication that one connection out of remaining three connections has been released by OP on 16.09.2020 vide CA No. 153146395, after 18.12.2019, the date MCD issued objection letter.
4. Heard both the parties and perused the record.

[Handwritten signatures]

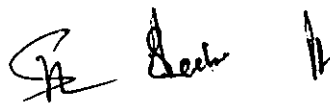
[Handwritten signature]

Complaint No. 169/2022

5. For deciding the complaint we find two material questions to consider. Validity of OP's pleas of MCD objection in releasing the connection and conditions available to complainant for grant of connection applied for, even in the presence of EDMC letter date 18.12.2019 in the present scenario.
6. In this context as per record deficiency of MCD objection was not raised by OP in one go and it was raised later on, after about two months, on 26.07.2022. It is also a fact that the applied premises is booked by MCD from 2019, information whereof was also delivered by MCD to the OP in 2019 itself.
7. As a general rule once a property is booked, OP is restrained to release any electricity connection therein. However, the purpose for this restriction is safety and security of life and property of the citizens. Neither MCD nor OP has a right to object the release of electricity connection at its whims and fancies. Since supply of electricity is a necessity and can't be denied as held by various courts in their judgments.

As it is decided by Himachal Pradesh High Court, in the matter of Madan Lal Vs State of Himachal Pradesh & Ors. Where it was stated that the right to water and electricity supply is an integral part of right to life under Article 21 of the Constitution of India.

In the matter of Durga Rani Singh Vs WBSDCL, 9 May 2016 Calcutta High Court, "A person is settled occupier of any premises is entitled to get electricity connection. The right to get electricity is considered as an extended Fundamental Right.

—




Complaint No. 169/2022

Therefore, in considering this issue we have to see gravity of the objection qua the necessity of electricity.

For this purpose we find two things in support of the complaint firstly complainant infact is seeking re-connection and not new connection, but she is obliged to complete formalities of new connection, for the reason that rules and regulations concerned provide for the same.

Secondly, despite receipt of MCD letter, dated 18.12.2022 aforesaid, requiring OP to disconnect supply of energy in the given premises, not only OP has taken any steps as required against those premises but also released one more connection on 16.09.2020 vide CA No. 153146395. Here no doubt it can't be a justification to commit a wrong on the footing that earlier also a wrong has been committed. But atleast OP has to justify how it is allowing other connections to continue in alleged violations of the provisions of law, rules and regulations or how the purpose of the said law is not being disturbed by the connections being used in the premises under objection list.

For this purpose we have gone through the letter dated 06.01.2020 sent by OP to EDMC, in response to directions of the corporation to disconnect supply of electricity in property under its objection list. In Fourth para of this letter OP has shown its inability to disconnect the supply keeping in view the law & order problem, further stating that non-sanctioning of connection will lead to the theft of electricity effecting AT&C loss of OP. Moreover, since 2019 even after passing three years, as on date, MCD has taken no action as required. It means that though MCD has objection but till the demolition takes place, in the opinion of

[Handwritten signature] *[Handwritten signature]* *[Handwritten signature]* 4 of 6

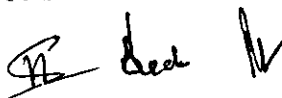
Complaint No. 169/2022

OP, purpose of relevant laws etc will not be jeopardized. This interpretation is also substantiated by the fact also that even after receiving directions of MCD to disconnect supply of electricity in the said premises, on 24.12.19 it has released new connection on 16.09.2020 with CA No. 153146395.

Moreover, going through Regulation 11(i)(iv), wrongly stated by complainant as 11 (5) aforesaid, it is made mandatory for OP to raise deficiency in one go only which specifically says that it shall not raise any new deficiency subsequently. Not only this clause (v) thereof specifically states that in case deficiency is not intimated within stipulated two days, the application shall be deemed to have been accepted by the licensee on the date of receipt of applicant.

However, even if it is established that the OP violated Regulation 11(1)(iv) &(v) of DERC (Supply Code and Performance Standards) Regulations 2017 and also provided another connection even after receipt of MCD objection list, has this Forum Jurisdiction and power to direct the release of electricity connection applied, even if it is also established that the applied premises were constructed in violation of Municipal Laws, Rules & Regulations. For that purpose Hon'ble High Court of Delhi in Parivartan Foundation Vs South Delhi Municipal Corporation and ors writ petition no. W.P. (c) 11236/2017 categorically directed the Discom and Delhi Jal Board to ensure that water and electricity be not supplied to the buildings constructed in violation of law.

Further, in another case M S Azra Vs GNCT of Delhi W.P. (c) 2432/2019, Hon'ble High Court of Delhi in its order dated 06.02.2022, it is observed





Complaint No. 169/2022

that merely because some of the occupants of the building have wrongly been given an electricity connection it can't be ground for the court to direct respondents to further compound the wrong act and direct granting of a new connection to the premises....."

In view of aforesaid findings and decisions of different Courts, in our considered opinion though OP has violated provisions of Regulation 11 of DERC Regulations 2017 aforesaid but is also finding itself unable to release the applied connection in view of the rulings in Parivartan (Supra) and M S Azra (Supra) cases passed by Hon'ble High Court of Delhi, as it finds the applied premises in MCD objection list.


Further as even after passing of about three years since 2019 - the objection raised, MCD has taken no action against the said premises, then OP shall enquire the MCD about the status of objection as on date, in writing, within a period of 15 days and in case the reply, says that the objection no longer subsists or there is no reply within the required time then OP shall release the electricity connection applied for.


OP is further directed to file compliance report within 30 days from the release of this order.

Accordingly, the complaint is disposed off.

No order as to the cost. Both the parties should be informed accordingly.
Proceedings closed.


(NISHAT A. ALVI)
MEMBER (CRM)


(P.K. AGRAWAL)
MEMBER (LEGAL)


(S.R. KHAN)
MEMBER (TECH.)


(P.K. SINGH)
CHAIRMAN