



C A No. Applied For
Complaint No. 230/2022

In the matter of:

Dhoom SinghComplainant

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)
5. Mr. H.S. Sohal, Member

Appearance:

1. Mr. Vinod Kumar, Counsel of the complainant
2. Ms. Ritu Gupta, Mr. Prateek Pahwa, Ms. Shweta Chaudhary & Mr. Shubham Singh, On behalf of BYPL

ORDER

Date of Hearing: 10th March, 2023
Date of Order: 24th March, 2023

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

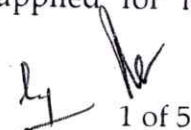
1. This complaint has been filed by Mr. Dhoom Singh against BYPL-KWN.
2. The brief facts of the case giving rise to this grievance are that complainant Mr. Dhoom Singh residing at property no. B-4/2, GF, Khasra no. 44, Main road, Johripur Extn., Delhi, applied for new electricity connection vide request no.

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8005869442 in his premises but respondent rejected his application for new connection without mentioning any reason in the deficiency letter. Later on in response to complainant's query OP replied that since the applied premises fall in UP the connection cannot be given.

3. OP in its reply briefly stated that the complainant applied for new electricity connection at property bearing house no. B-4/2, Khasra No. 44, Main Road, Johripur Extension, which is claimed to be existing in Delhi vide request no. 8005869442. Site of the complainant was visited on 26.08.2022 and technical feasibility was rejected. The site of the complainant was again visited on 29.08.2022 and on revisit it was again confirmed that subject premises falls under in UP and one electricity connection was already there which was not there at the time of first visit. On receipt of present complaint site was again visited on 01.11.2022 and it was found that one connection bearing CA No. 101538852 existed at site in the name of the complainant. The complainant insist that the area/subject premises falls under Delhi Jurisdiction, therefore, he should be directed to produce NOC from DC Revenue/ Advisory Committee.
4. Complainant by filing rejoinder reiterating his stand states that in support of Jurisdiction of Delhi, he has placed Aadhar Card, Voter ID Card etc. issued by Delhi Authorities while OP has not even filed demarcation report in support of his claim of premises being in U.P.
5. Going through the pleadings and after hearing both the parties, the main issue to be decided is of Jurisdiction of Delhi. Perusal of Aadhar Card, Voter I Card, Khasra/Khatauni placed on record by complainant shows that Delhi Authorities has issued Aadhar Card and Voter I card on the applied address. However, copy of Khasra Khatauni reveals that it pertains to Khasra no. 41, and not to 44.

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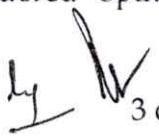
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Complainant despite opportunity did not clear this controversy. Controvert the evidence in the Forum of Aadhar Card and Voter I Card of Delhi, OP though mentioned demarcation report, but despite so many dates of appearance not filed any such demarcation report. Only document filed by OP is copy of electricity bill vide CA No. 1100538852 of the connection installed on the very much applied premises in the name of complainant himself. With respect to this connection OP states that the same was given on the basis of the Aadhar Card and Voter I Card, Claiming to be issued wrongly by Delhi Authorities since as per demarcation report the area falls in UP and not Delhi. Therefore, thrust remains only on demarcation report which OP has failed to prove. As per Provisions of the Evidence Act, onus to prove a fact lies only on the person who takes a particular plea. Here OP claims the area being in UP jurisdiction. Therefore, it becomes its duty to prove its case which OP has failed to. Now since OP has failed to prove that the Aadhar Card and Voter I Card has wrongly been issued by Delhi Authorities, we have no option but to rely on these documents which prove complainant's case. Further in this situation OP's plea of electricity connection in complainant's premises on fake documents also stands not proved. Not only ~~has~~ this existence of this connection further strengthens complainant's case that OP's network/jurisdiction extends to complainant's premises. Not only this as per visit report of OP dated 01.11.2022 on the left and right side of the premises also OP's connections are provided. While OP nowhere claims that UP connections are also installed in the said right and left side premises. Now only question, OP has to decide, remains, as to whether as per Electricity Act, Rules and Regulations concerned another connection in the applied premises is feasible or not. If feasible in our considered opinion complainant is entitled to the connection applied for.

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We have also gone through various orders/judgments passed by various forums and Courts. In Ram Kumar Vs BSES Yamuna Power Limited, appeal no. 2/2021 Hon'ble Ombudsman has dealt with the same dispute of Jurisdiction particularly of Johripur Extension of Karawal Nagar Area of Delhi. Learned Ombudsman has observed that none of the two parties were able to produce Revenue record, further observing in Para-7 of its order that " the denial of the electricity connection by the Discom is purely based on conjectures, since they don't have any authenticated record to prove that the area lies in the state of U.P. Not only this, the order further states in the last of Para-7 that "the Discom also needs to look into the matter rather seriously and they can't deny the connection purely on the basis of hearsay, that the area lies in U.P. It is also observed that issue of demarcation of this area is still pending before the Hon'ble High Court.

In another case namely Human Fundamental Rights Association (Regd.) & Others Vs Union of India & ors W.P. © 6211/2012 Hon'ble High Court of Delhi has dealt with the question of jurisdiction. Facts of the case were the area in dispute had been developed as a colony of Delhi. As such its residents were issued Delhi I-cards, water connections, BSES electricity connection. Later on, demarcation took place, whereby about 209 of properties fall, partly in UP and partly in Delhi therefore, Discom disconnected the connections of premises which were falling in U.P. area. Aggrieved **complainant** challenged demarcation process by way of writ petition, wherein Hon'ble High Court by way of interim order not only stayed disconnections but also allowed BSES-YPL to allow applications for new connections in the UP area itself on pre-paid meters till proper demarcation took place.



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In the light of above two judgments we observe that connection of electricity can't be rejected unless and until something concrete is brought forward to establish jurisdiction of a particular state. Discom can't take plea of jurisdiction unless a clear cut proof is provided by it to justify that area concerned is out of its jurisdiction.

In another case titled as Dilip (dead) LR Vs Satish Scc online SC810 dt. 13.05.22, Hon'ble Supreme Court has held that electricity is a basic utility, which person cannot be deprived off. In the present circumstances, left side property and right side property of the applied premises already have BSES-YPL connection; therefore, the complainant who had applied for new connection in the same area cannot be deprived of his right to electricity.


ORDER

Complaint is allowed. Respondent is directed to release the connection applied by complainant after completion of all the commercial formalities and without asking him DC/Revenue Record.


OP is also directed to file compliance report to this office within 21 days from the issue of this order


Accordingly, the case is disposed off.

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


(S.R. KHAN)
MEMBER-TECH


(P K SINGH)
CHAIRMAN


(P.K.AGRAWAL)
MEMBER-LEGAL


(NISHAT AHMAD ALVI)
MEMBER-CRM

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(H.S. SOHAL)
MEMBER