



C A No. Applied For
Complaint No. 145/2022

In the matter of:

Dr. Azeem AhmedComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

1. Mr. P.K. Singh, Chairman
2. Mrs. Vinay Singh Member(Law)
3. Mr. Nishat Ahmed Alvi, Member (CRM)

Appearance:

1. Mohd. Afsar, A.R. of the complainant
2. Mr. Imran Siddiqi, Ms. Shweta Chaudhary, Mr. Tarun Anand & Ms. Katha Mathur, On behalf of BYPL

ORDER

Date of Hearing: 13th September, 2022

Date of Order: 15th September, 2022

Order Pronounced By:- Mrs. Vinay Singh, Member (Law)

This complaint has been filed by Dr. Azeem Ahmed against respondent the BYPL division Yamuna Vihar.

The grievance which resulted into this complaint is that the complainant applied for new electricity connection at house no. H.No. 1584, Gali No. 3, Chauhan Banger, Delhi-110053, vide request no. 8005458796, 8005458786,

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8005458776 but respondent rejected his application for new connection on pretext of same site energy & enforcement dues and building height more than 15 meters. It is also his submission that respondent has already issued connections in the same premises. Therefore, he requested the forum to direct the respondent for immediate release of new connections.

The reply of the respondent is as under:-

Respondent submitted that applicant Dr. Azeem Ahmed applied for new electricity connection for domestic purpose vide application numbers 8005458776, 8005458796 & 8005458786 at A-9/11-B, top Floor, right side, Kh. No. 1/228, Gali No. 3, old no. 1584, Chauhan Banger, Near Khadde Wali Masjid, Delhi-110053. Respondent further added that during site visit it was found there are pending energy as well as enforcement dues and that height of the applied premises wherein the new electricity connection applied is more than 15 meters having G+5 floors and for building having height of more than 15 meters, in terms of Supply Code 2017, a Fire Clearance Certificate is required. The relevant provision of the Supply Code 2017 is reproduced herewith:-

7. Wiring in the premises of the consumer:-

(2) All multi-storeyed buildings, having a height of more than 15 meters from ground level, shall also comply with Clause 36 of the Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010 and amendments thereof.

Clause 36 of the Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations 2010.

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36. Provisions for supply and use of electricity in multi-storied building more than 15 meters in height: -

- (1) The connected load and voltage of supply above which inspection is to be carried out by an Electrical Inspector for a multi-storied building of more than fifteen meters height shall be notified by the Appropriate Government.
- (2) Before making an application for commencement of supply or recommencement of supply after an installation has been disconnected for a period of six months or more, the owner or occupier of a multi-storied building shall give not less than thirty days notice in writing to the Electrical Inspector specify therein the particulars of installation and the supply of electricity shall not be commenced or recommenced within this period, without the approval in writing of the Electrical Inspector.
- (3) The supplier or owner of the installation shall provide at the point of commencement of supply; a suitable isolating device with cut-out or breaker to operate on all phases except neutral in the 3-phase, 4-wire circuit and fixed in a conspicuous position at not more than 1.70 meters above the ground so as to completely isolate the supply to the building in case of emergency.
- (4) The owner or occupier of a multi-storied building shall ensure that electrical installations and works inside the building are carried out and maintained in such a manner as to prevent danger due to shock, and fire hazards, and the installation is carried out in accordance with the relevant codes of practice.
- (5) No other service pipes and cables shall be taken along the ducts provided for laying power cables and all ducts provided for power cables and other services shall be provided with fire barrier at each floor crossing.

Heard the complainant and the respondent and perused the relevant records. From the submissions made by both the parties we find that the complainant applied for new electricity connections vide application no. 8005458796,

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8005458776 & 8005458786. Respondent rejected the applications of new connections of the complainant on pretext of outstanding energy and enforcement dues at the applied premises and building height more than 15 meters.

During the course of hearing the A.R. of the complainant submitted that the issue regarding dues has been cleared with the respondent.

The respondent's other objection regarding height of the building, the forum's view is according to building bye-laws and DERC Regulations 2017 is as under:

As per DERC (Sixth Amendment) order, 2021 dated 15.04.2021:

2.0(3) In case of residential buildings, for release of electricity connection the Distribution Licensee shall not insist for Fire Clearance Certificate for the residential building having height up to 15 meters without stilt parking and up to 17.5 meters with stilt parking.

The notification of DERC vide no. F.17(85)/Engg./DERC/2016-17/5403/487 dated 31.05.2019 is only for residential building and not for commercial buildings in which it clearly clarifies that 17.5 meter height of the building alongwith stilt building only for residential purpose, not for commercial purpose. The relevant portion is mentioned below:

4.DISCOMs have also informed that the buildings are being constructed in Delhi with stilt parking Clause 4.4.3 of the MPD 2021, the maximum height of a building in a residential plot plotted housing is mandated is as under:

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"Height: Maximum height of the building shall be 15 M in plots without stilt parking and 17.5M in plots with stilt parking. Such residential building shall not be considered as high rise building. For purpose of fire and life safety requirements, clearance of Fire Department will be obtained by the Individual plot owner."

5 Hon'ble High court of Delhi in its judgment dated 29.05.2003 in CWP 27/10/1998 and CM 4780/2003 in the matter of Dr. B.L. Wadhwa Vs. Govt. of NCT of Delhi and Ors. has directed that in all high rise buildings in Delhi and New Delhi fire safety measures are to be adhered to.

Delhi Fire Service Rules, 2010 under Delhi Fire Service Act, 2007 (Delhi Act 2 of 2009) relevant portion is narrated below:-

27. Classes of occupancies likely to cause a risk of fire. Occupancies for the purposes of sub-section

(1) of section 25 of the Act shall be construed to likely cause a risk of fire, namely:-

(1) Pandal having seating capacity more than 50 persons or covered area more than 50 square meters.

(2) Residential buildings (other than hotels and guest houses) having height more than 15 meters or having ground plus four upper stories including mezzanine floor.

(3) Hotels and guest houses having height more than 12 meters having ground plus three upper stories including mezzanine floor.

(4) Educational buildings having height more than 9 meters or having ground plus two upper stories including mezzanine floor.

(5) Institutional buildings having height more than 9 meters or having ground plus two upper stories including mezzanine floor.

(6) All Assembly buildings

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(7) Business buildings having height more than 15 meters or having ground plus four upper stories including mezzanine floor.

8) Mercantile buildings having height more than 9 meters or having ground plus two upper stories including mezzanine floor.

(9) Industrial buildings having covered area on all floors more than 250 square meters.

(10) Storage buildings having covered area on all floors more than 250 square meters.

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."

In the High Court of Delhi in the matter of Vikas Singh Vs. Lieutenant Governor and Others in W.P. (c) 1476/2014 date of decision 20.01.2016, which is reproduced as under:-

As per Rule 27 (2) of the Delhi Fire Services Rules, 2010 on the ground of the same being not in consonance with the amendment vide Notification dated 23.09.2013 of the Master Plan for Delhi (MPD)-2021.

The petition came up first before this Court on 07th March 2014, when the counsel for the respondents No. 1 to 3 i.e. Lieutenant Governor of Delhi, Govt of NCT of Delhi (GNCTD) and Director, Delhi Fire Services (DFS), GNCTD appearing on advance notice was directed to file an affidavit indicating the position with regard to fire safety clearance of buildings upto 15 metres in height and beyond 15 metres in height. It was further directed that the said

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affidavit shall also indicate, as to whether there is need for changing the cap of 15 metres as stipulated in Rule 27 (2) supra, on account of change in the Master Plan whereby the maximum height for residential buildings with stilt parking has been increased to 17.5 metres from the erstwhile limit of 15 metres.

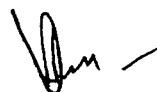
According to Delhi Development Act 1957, bye-laws 2.58 whereof defines "Parking Space" as an area enclosed or unenclosed, covered or open, sufficient in size to park vehicles, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of the vehicles.

Appendix J whereof containing "Relevant Extracts from MPD-2021 regarding Development Control Regulations" provides the maximum height of constructions of residential plotted development, of 15 metres and further provides that if the building is constructed with stilt area of non-habitable height (less than 2.4 metres), used for parking, such stilt area shall not be included in FAR but would be counted towards the height of the building.

Bye-laws 6.2.4.1 of the Building bye-laws.....has demonstrated that the building plan for such multi-storied/special buildings has to show inter alia the location and size of fire lift, smoke exhauster system, access to fire appliances/vehicles with details of vehicular turning circle and clear motorable access way around the building etc.

Bye-laws (vi) (iii) that the Section 32 thereof requires only the "multi-storied buildings" to be governed by the provisions for the fire prevention and fire safety measures stipulated therein.

After going through all the aspects of the case that the complainant has applied for a new domestic connection on fifth floor, the height of the floor is above 15 meters. As per the sixth amendment the connection is not feasible because it is upto 15 meters. The respondent's demand of fire clearance certificate is genuine because this building height is more than 15 meters.




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So, we direct


1. The respondent is directed to release the domestic connection whenever the complainant submits the fire clearance certificate and fulfills all the commercial formalities as per DERC Guidelines 2017 because the height of the floor in which connection is required is more than 15 meters.
2. Respondent is also directed to file compliance report within 21 days from the date of this order.

The case is disposed off as above.

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


(NISHAT AHMAD ALVI)
MEMBER (CRM)


(VINAY SINGH)
MEMBER (LAW)


(P.K. SINGH)
CHAIRMAN
15/9/22