



Consumer Grievance Redressal Forum  
FOR BSES YAMUNA POWER LIMITED  
(Constituted under section 42 (5) of Indian Electricity Act. 2003)  
Sub-Station Building BSES (YPL) Regd. Office Karkardooma,  
Shahdara, Delhi-110032  
Phone: 32978140 Fax: 22384886  
E-mail: cgrfbypl@hotmail.com  
SECY/CHN 015/08NKS

C A No. Applied For  
Complaint No. 422/2023

In the matter of:

Mohammed Danish

.....Complainant

VERSUS

BSES Yamuna Power Limited

.....Respondent

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

Appearance:

1. Mr. Imran Siddiqui, Counsel of the complainant
2. Ms. Ritu Gupta, Ms. Seema Rawat, Ms. Chhavi Rani & Mr. Akshat Aggarwal, on behalf of respondent.

ORDER

Date of Hearing: 29<sup>th</sup> February, 2024  
Date of Order: 04<sup>th</sup> March, 2024

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

1. The complaint has been filed by Mohd. Danish against BYPL-Laxmi Nagar. The brief facts of the case giving rise to this grievance are that Mohammad Danish applied for new connections vide request no. 8006583399 and 8006625437 at premises no. J-3/49, G/F, J Extn, Laxmi Nagar, Delhi-110092

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but respondent rejected the application of the complainant for new connection on pretext of same site energy dues, this objection of OP is not correct.

2. OP in its reply briefly stated that the complainant is seeking new electricity connection on the Ground floor of premises bearing no. J-3/49, G/F, J Extn, Laxmi Nagar, Delhi-110092 vide request no 800658339. The same was rejected on the grounds of outstanding dues payable by the complainant and pole encroachment. It <sup>is</sup> submitted that in respect of the outstanding dues pro rata share of the complainant was calculated. The said pro-rata share amounting to Rs. 3354/- stands paid by the complainant there the only issue which remains is that of pole encroachment. The pole is encroached in such a way that the extended portion of the balcony is directly above the pole and no safe distance has been maintained. Further, due to the extension of the balcony, the pole of the respondent cannot be lifted in case of urgency, emergency and need. Details of existing installed connections are as under :-

Meter No.	CA No.	Address	DOE
55294490	100981323	J-3/49,Laxmi Nagar,Delhi-110092	17.09.2001
11312557	101115288	J-3/49,J Extn, 1/Floor	17.09.2007
12340084	100990252	J-3/49,Extn,Laxmi Nagar	27.04.2004
35640988	100970300	J-3/49 shop no. 1 G/F Laxmi Nagar	28.06.2009

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Reply further stated that since the building wherein new connection is sought has encroached the electricity pole and requisite distance is not maintained as such no new connection can be granted till the unauthorized construction is removed and requisite distance is maintained.

3. In response to the reply the complainant filed rejoinder. The complainant has applied electricity connection for his shop at ground floor of the premises bearing no J-3/49, J-extension Laxmi Nagar, Delhi-110092. Respondent raised objection that there are dues at the applied portion and same pro-rata share was duly paid by him. Subsequently after deposit of amount asked by the respondent for release of his connection however to the utter shock of the complainant the respondent raised another objection of pole encroachment and ask the complainant that for release of new connection he has to remove the pole encroachment first and till that the said objection is not removed his connection will not be released.

It is submitted that initially the application of new connection of complainant was rejected on pending dues and when the complainant deposited an amount of Rs. 3356/- as asked by the respondent another objection of pole encroachment was raised, whereas the said objection of pole encroachment was not mentioned by the Rules and Regulations. And now the said objection of pole encroachment cannot be raised by the respondent at al later stage.

It is submitted that the respondent has given the connection to the consumer in year 2007, to which they are alleging that a balcony is direct above the pole and no distance has been maintained as same is wrong

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and denied as since several years the respondent are doing their maintenance work without any hindrance and no safety issue has ever been reported and more importantly the complainant shop on ground floor is at a distance of approx 12 meter away from the pole, where the new connection has been applied.

4. Heard both the parties at length and perused the record.
5. The issue is whether the new connection can be released to the complainant in view of pole encroachment.
6. The relevant provision for this complaint are Section 53 and 68 (5) of Electricity Act 2003 and Section 136 and 138 of Electricity Act 2003 and Rule of DERC Regulations are narrated below:

**Section 53. (Provisions relating to safety and electricity supply):** The Authority may in consultation with the State Government, specify suitable measures for -

- (a) protecting the public (including the persons engaged in the generation, transmission or distribution or trading) from dangers arising from the generation, transmission or distribution or trading of electricity, or use of electricity supplied or installation, maintenance or use of any electric line or electrical plant;
- (b) eliminating or reducing the risks of personal injury to any person, or damage to property of any person or interference with use of such property ;
- (c) prohibiting the supply or transmission of electricity except by means of a system which conforms to the specification as may be specified;
- (d) giving notice in the specified form to the Appropriate Commission and the Electrical Inspector, of accidents and failures of supplies or transmissions of electricity;
- (e) keeping by a generating company or licensee the maps, plans and sections relating to supply or transmission of electricity;
- (f) inspection of maps, plans and sections by any person authorised by it or by Electrical Inspector or by any person on payment of specified fee;

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(g) specifying action to be taken in relation to any electric line or electrical plant, or any electrical appliance under the control of a consumer for the purpose of eliminating or reducing the risk of personal injury or damage to property or interference with its use.

Section 68. (Provisions relating to Overhead lines): (5) Where any tree standing or lying near an overhead line or where any structure or other object which has been placed or has fallen near an overhead line subsequent to the placing of such line, interrupts or interferes with, or is likely to interrupt or interfere with, the conveyance or transmission of electricity or the accessibility of any works, an Executive Magistrate or authority specified by the Appropriate Government may, on the application of the licensee, cause the tree, structure or object to be removed or otherwise dealt with as he or it thinks fit.

Section 136. (Theft of electric lines and materials): --- (1) Whoever, dishonestly -

(a) cuts or removes or takes away or transfers any electric line, material or meter from a tower, pole, any other installation or place of installation or any other place, or site where it may be rightfully or lawfully stored, deposited, kept, stocked, situated or located including during transportation, without the consent of the licensee or the owner, as the case may be, whether or not the act is done for profit or gain; or

(b) stores, possesses or otherwise keeps in his premises, custody or control, any electric line, material or meter without the consent of the owner, whether or not the act is committed for profit or gain; or

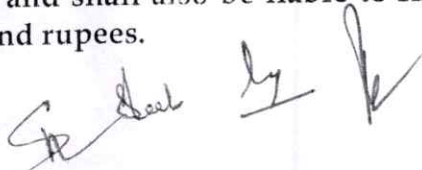
(c) loads, carries, or moves from one place to another any electric line, material or meter without the consent of its owner, whether or not the act is done for profit or gain,

is said to have committed an offence of theft of electric lines and materials, and shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

(2) If a person, having been convicted of an offence punishable under subsection (1) is again guilty of an offence punishable under that subsection, he shall be punishable for the second or subsequent offence for a term of imprisonment which shall not be less than six months but which may extend to five years and shall also be liable to fine which shall not be less than ten thousand rupees.

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Section 138. (Interference with meters or works of licensee): (1)  
Whoever, -

(a) unauthorisedly connects any meter, indicator or apparatus with any electric line through which electricity is supplied by a licensee or disconnects the same from any such electric line; or


(b) unauthorisedly reconnects any meter, indicator or apparatus with any electric line or other works being the property of a licensee when the said electric line or other works has or have been cut or disconnected; or


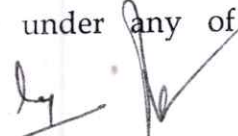
(c) lays or causes to be laid, or connects up any works for the purpose of communicating with any other works belonging to a licensee; or

(d) maliciously injures any meter, indicator, or apparatus belonging to a licensee or willfully or fraudulently alters the index of any such meter, indicator or apparatus or prevents any such meter, indicator or apparatus from duly registering, shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to ten thousand rupees, or with both, and, in the case of a continuing offence, with a daily fine which may extend to five hundred rupees; and if it is proved that any means exist for making such connection as is referred to in clause (a) or such reconnection as is referred to in clause (b), or such communication as is referred to in clause (c), for causing such alteration or prevention as is referred to in clause (d), and that the meter, indicator or apparatus is under the custody or control of the consumer, whether it is his

property or not, it shall be presumed, until the contrary is proved, that such connection, reconnection, communication, alteration, prevention or improper use, as the case may be, has been knowingly and willfully caused by such consumer.

7. To sum up OP alleges that there is violation of Regulation 11 (2)(iv)(c) of DERC (supply Code and Performance Standards) Regulation 2017, hence, connection cannot be granted. As per this Regulation Licensee/OP may not sanction the load, if upon inspection, the licensee finds that the energization would be in violation of any provision of the act, Rules, Regulations or any other requirements if so specified or prescribed by the commission or Authority under any of their Regulations or order.

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Going through the Regulation 60 & 61, we find that it mandates to follow a minimum horizontal and vertical clearance required to be maintained from the electricity mains/installations for any building/structure/balconies/verandas/roof/chajja where an extra high/medium/low voltage line passes above or adjacent to any building or part of the building to avoid any electrical accident. Section 53 and 63 read with Section 161 of the Electricity Act, also provide for safety measure.

In the present case OP has raised two fold deficiencies one of pole encroachment and other of payment of pro-rata dues.

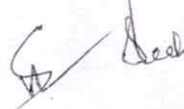


During the course of arguments following facts were revealed:-

- That the pro-rata dues as raised by OP are duly paid by the complainant, therefore this objection of OP does not exist now.
- Regarding the other objection of OP, pole encroachment, in this regard it came to our knowledge that OP has released connections to the premise whose balcony is extended.
- Complainant's shop where he has applied for new connection is approx 10 meters away from the pole.

In view of the above, OP has released the new connection in the premise whose balcony is extended. Forum in its earlier orders have given connections to the buildings where pole is encroached but not grabbed inside the walls of the building.

On that fact that even as per law as mentioned in Regulation 60 (3) of above Regulation 2010 if the distance is less than 1.2 meter, connection can be given if it is adequately insulated. There is no dispute regarding the fact that the supply of electricity is provided totally through insulated wire. Hence, on this very ground complainant cannot be deprived of the electricity connection.

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Thus we are of the considered view that there is no violation of Electricity Act and Regulations of 2017 aforesaid and Regulation 11 (2) (iv)(c) of Regulation 2017 is no more a hindrance in granting the electricity connection in the applied premises. While various courts provide electricity as basic necessity as follows:

Water and electricity are integral part of right to life. Hon'ble Supreme Court in the matter of Dilip (Dead) LR vs Satish, in case no. SCC online SC810 dated 13.05.2022 has held that electricity is basic amenity which a person cannot be deprived off. Even on the principle of law there should be equity before law and equal protection of law in the spirit of constitution.


Thus, the objection of the OP is no justified and we cannot deprive the complainant of electricity. Therefore, OP is hereby directed to grant the application of the complainant for electricity connection in the applied premises.

ORDER

The complaint is allowed. OP is directed to release the new connection to the complainant after filing an undertaking by the complainant that he would not breach the distance between his building and the pole.

**The case is disposed off as above.**


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

  
(S.R. KHAN)  
MEMBER-TECH

  
(NISHAT AHMAD ALVI)  
MEMBER-CRM

  
(P.K. SINGH)  
CHAIRMAN

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(P.K. AGRAWAL)  
MEMBER-LEGAL

(H.S. SOHAL)  
MEMBER