



C A No. Appiled For
Complaint No. 294/2023

In the matter of:

Mohd GulzarComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

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

Appearance:

1. Mr. Imran Siddiqui, Counsel of the complainant
2. Ms. Ritu Gupta, Mr. R.S. Bisht & Ms. Shweta Chaudhary, On behalf of BYPL

ORDER

Date of Hearing: 12th December, 2023

Date of Order: 20th December 2023

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

1. The complainant Mohd Gulzar, applied for new electricity connection vide application no. 800628909 for ground floor of premises no. A-267/268, Gali No. 1, Aman Puri, Nabi Karim, Paharganj, Delhi-110055, but respondent rejected the application of the complainant for new connection on the pretext of fire safety clearance required, dues exists and MCD objection. Counsel of the complainant alleges that OP is deliberately not releasing the new connection at ground floor while connections on other floors already exists.

Attested True Copy

Secretary
CGRF (BYPL)



Complaint No. 294/2023

2. OP in its reply briefly submitted that complainant is seeking new electricity connection under non-domestic category for ground floor of premises bearing no. A-267-268, Gali No. 1, Amar Puri, Nabi Karim, Paharganj, Delhi vide request no. 8006289709 and same was rejected as upon verification, it was found that the applied address is in the list circulated by MCD of sealed premises on account of activities which were not permitted in non-conforming areas. In the said list, premise of the complainant is mentioned at serial no. 116 wherein earlier Umesh Thread Ball Factory was being run as a consequence the same was sealed. The said sealing was carried out in view of Step-2 of implementation of order passed by Hon'ble Supreme Court on 26.11.2018 for closure of impermissible industrial units functioning in the residential or non-conforming areas of Delhi.

Reply further stated that complainant on record placed a communication dated 03.02.2023 from the MCD to the complainant, whereby approval has been granted with respect to the de-sealing of the subject property on the condition that the property must not be used for any dis-allowed purposes/activities. Thus it is an admitted case that property was sealed on account of carrying out the activity which is not permitted in the subject areas. Accordingly, as the connection sought for is not for domestic purposes, in terms of the aforementioned order complainant is required to produce documents before the DISCOM in the shape of license from MCD or NOC from DPCC whereby it was confirmed that electricity usage for purpose sought for is duly permitted by the concerned authorities. Also, there are pending dues of CA no. 151970205 which the complainant has to clear.

Complaint No. 294/2023

The building is a joint property having address 266-268 and is a commercial building having ground plus five floors over it. Being a commercial building complainant can't take benefit of DERC Sixth amendment of 2021 of Supply Code and Performance Standards Regulation 2017 of the commission and Fire Safety Clearance Certificate from MCD is must for grant of the said connection. As per OP details of connections already energized in the applied building is as follows :

S.No.	Meter No.	Date of energization	Category
1	70360463	04.07.2022	DX
2	35670668	11.12.2008	NX
3	35599514	27.02.2019	DX
4	55210107	20.07.2018	NX
5	55173268	27.12.2008	NX
6	70109761	05.03.2010	NX
7	70109900	15.09.2012	NX
8	55189028	15.10.2015	NX

3. The counsel of the complainant has placed on record, the de-sealing of property, orders of MCD dated 03.02.2023 and also submitted General Trade/Storage License which is valid upto 31.03.2024.
4. Heard and perused the record.
5. Perusal of pleading and documents placed or record by both the parties reveal that as on date the subject property has been de-sealed with the condition that the premises shall not be used for any disallowed purposes/activities as per provisions of MPD 2021 of DMC Act 1957. Consequently issue of sealing no more survives. Only condition to be considered is that the user of the premises is not for any disallowed purposes.

Complaint No. 294/2023

In this connection we find on record a license dt 6.4.2023 issued by MCD to the complainant. This license is valid up to 31.03.2024. Perusal of the license shows that this is issued for the purpose of storage of leather and Rexine Products. Issuance of this license itself shows that the purpose of this license is not covered under disallowed activities as per de-sealing order aforesaid.

6. So far as the issued of requirement of Fire Safety Clearance Certificate is concerned it depends on the nature of building. If the building is commercial only then this fire certificate is required. In this respect going through OP's reply, para -9 thereof shows that the building is having domestic as well as non domestic connections therein. OP was asked to provide any Rule/Regulation/SOP or any provision of law on the basis thereof OP concludes that the building is commercial or it has got the authority to pick and choose the nature of building suomoto. But despite opportunity OP failed to place on record any such document/Rule etc. Going through bills of domestic connections we find that connection vide CA No-153846542 was energized on 04.07.22 at 4th Floor of the building again bill of CA No- 152755412 shows that it was energized on 27.02.2019 at 2nd Floor of the building.

In the aforesaid fact and circumstances we don't find any basis of OP's plea that the building is commercial and the benefit of sixth amendment aforesaid is not available to the complainant.

7. To sum up deficiency showing building as sealed, by MCD, has since been cured as on date. Further the condition of de sealing has also been fulfilled by the Complainant by placing on record the trade license.

[Handwritten initials] *[Handwritten signature]* *[Handwritten mark]*

Complaint No. 294/2023

Issue of Fire Safety Clearance Certificate also does not survives any more as OP has failed to establish that the building is commercial building. Consequently Sixth amendment of 2021 aforesaid is very much applicable in the present case.

Regarding dues of CA No-151970205 we don't find any document/bill showing details of the outstanding dues. Thus this plea being vague OP has failed to press its demand.

On the basis of aforesaid findings this Forum is of the opinion that rejection of complainant's request vide order no- 800628909 is not justified and the complainant is very much entitled for the connection applied for.

ORDER


Complaint is allowed. OP is directed to release the new connection applied for vide request no. 800628909 to the complainant on his ground floor of property bearing mo- A-267-268, Gali No-1, Amar Puri, Nabi Karim, Paharganj Delhi after completion of all the commercial formalities as per DERC Regulations 2017.


OP is further directed to file compliance report within 21 days from the date of this order.

No order as to the cost. Both the parties should be informed accordingly. File be consigned to Record Room.

The case is disposed off as above.


(P K SINGH)
CHAIRMAN


(S.R. KHAN)
MEMBER-TECH


(NISHAT AHMAD ALVI)
MEMBER-CRM