

C A No. Applied for
Complaint No. 195/2022

In the matter of:

Mohd RiyazComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

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

Appearance:

1. Mr. Adarsh Kumar, Counsel of the complainant
2. Mr. Imran Siddiqi, Ms. Ritu Gupta, Mr. Sachin Dubey & Ms. Divya Sharma, On behalf of BYPL

ORDER

Date of Hearing: 06th December, 2022

Date of Order: 08th December, 2022

Order Pronounced By:- Mr. P.K. Singh, Chairman

1. This complaint has been filed by Mohd. Riyaz against BYPL-YVR.
2. The brief facts of the case giving rise to this grievance are that complainant Mohd Riyaz applied for new connection vide request no. 8005698218 at his premises no. 05th floor, Kh.no. IETC/96, D-68, Gali No. 10, Brahmpuri, Near Masjid. He further submitted that respondent rejected his application for new connection on the pretext of "same site energy dues" which is fake ground.

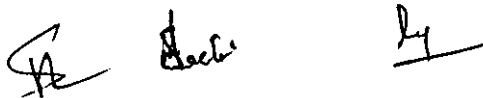
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Complaint No. 195/2022

3. The respondent in reply briefly stated that Mohd Riyaz applied for new electricity connection for domestic purpose vide application no. 8005698218 at D-60, 5th floor, Kh. No. IETC/96, Gali no. 10, Brahampuri, Near Masjid, Delhi-53. The complainant's request for new connection was rejected due to being the address of the premises for which the new electricity connections applied appearing in the objection list of EDMC as per MCD letter no. EE (B)-ii/SH-N/2019/D-850, dated 18.12.2019 has booked for unauthorized construction.

OP further submitted that during site visit it was found that height of the building where new electricity connection is applied is more than 15 meters having GF to 4 floors. Building is having height of more than 15 meters without stilt parking as in terms of Supply Code 2017; a fire clearance certificate is required.

4. Heard both the parties and perused the record.
5. The issue in this matter is can new connection be released in the premises which are booked by Municipal Corporation.
6. Heard the arguments of Authorized Representative of the complainant and OP-BYPL. Representative of the complainant has submitted that electricity being an essential commodity; he cannot be denied the new electricity connection. He further stated that his premises consist of parking and four floor and he is eligible for new connection.



Complaint No. 195/2022

7. In this record, LR of OP submitted that as per their site visit report dated 21.06.2022 there is construction at the stilt parking area and the premise where connection is sought is on the fourth floor and height of the building is more than 15 meters.

8. As far as legal position is confirmed according to DERC (Supply Code and Performance Standards) Regulations 2017, Rule 10 (3) for the new connection proof of ownership or occupancy is required.

Performa for new connection has been provided in DERC (Supply Code and Performance Standards) Regulations 2017 as annexure 1, seven declarations are required as per performa and in this case 5th one is important "that the building has been constructed as per prevalence building bye-laws and the fire clearance certificate, if required, is available with the applicant."

DERC (Supply Code and Performance Standards) Regulations 2017, Rule 11 (2)(iv)(c) shows that "the Licensee shall not sanction the load, if upon inspection, the Licensee finds that;

(c) the energization would be in violation of any provision of the Act, Electricity Rules, Regulations or any other requirement, if so specified or prescribed by the Commission or Authority under any of their Regulations or Orders.

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.

Complaint No. 195/2022

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

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

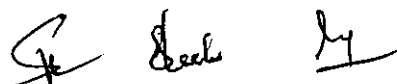
(1) The connected load and voltage of supply above which inspection is to be carried out by an Electrical Inspector for a multi-storied building of more than fifteen meters height shall be notified by the Appropriate Government.

(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.



Complaint No. 195/2022

9. Hon'ble Delhi High court in case of Parivartan Foundation Vs. South Delhi Municipal Corporation & Others W.P. (c) 11236/2017 dated 20.12.2017 has laid down that

3. The BSES Rajdhani Private Limited and the Delhi Jal Board shall ensure that no connections are provided and water and electricity is not supplied to the buildings constructed in violation of law.

4. In case, the connections have been given to the buildings constructed in violation of law, appropriate steps in accordance with law shall be taken regarding those connections.

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:

"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."

Complaint No. 195/2022

Therefore, we are of the opinion that the premises of the complainant have been booked by EDMC under Section 343 and 344 of DMC Act 1957 vide their letter no. EE(B)-11/SH-N/2019/D-850 dated 18.12.2019 for unauthorized construction at sl. no. 35 of the list address to CEO (BYPL), Karkardooma. The letter of EDMC states that under construction of T.F. (only raising walls) (G.F., F.F., S.F., old and occupied) Plot area 80sq yards approx. It shows that the building of the complainant is booked beyond second floor.

Second objection of OP, regarding building height more than 15 meters is in accordance with sixth amendment order dated 15.04.2021 where residential buildings having height up to 15 meters without stilt parking and up to 17.5 meters with stilt parking. As per the site visit report submitted by OP the ground floor consist of shops instead of stilt parking and the height of the building is more than 15 meters.


Therefore, we are of the opinion that the premises have been constructed in violation of Rules and Regulations as per law. Therefore, OP cannot be compelled to release the connection.

ORDER


Complaint is rejected. Respondent has rightly rejected the application of new connection of the complainant.

The case is disposed off as above.

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