



C A No. Applied For  
Complaint No. 261/2023

In the matter of:

Omvir Singh .....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 (Technical)
5. Mr. H.S. Sohal, Member

Appearance:

1. Mr. Vinod Kumar, Counsel of the complainant
2. Ms. Ritu Gupta, Mr. R.S. Bisht, Ms. Shweta Chaudhary & Ms. Chhavi Rani, On behalf of BYPL

ORDER

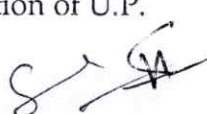

Date of Hearing: 14<sup>th</sup> September, 2023

Date of Order: 20<sup>th</sup> September, 2023

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

1. The brief facts of the case giving rise to this grievance are that complainant Mr. Omvir Singh residing at property no. D-56/1, FF, Kh. No. 921/29, Gali no. 9, Johripur Extension, Delhi-110094, applied for new electricity connection vide request no. 8006224457 but respondent rejected his application for new connection on the pretext of requirement of NOC from concerned authority as allegedly the area concerned falls within the jurisdiction of U.P.


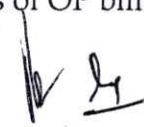
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2. OP in its reply briefly stated that the complainant applied for new electricity connection at first floor of property bearing no. D-56/1, FF, Kh. No. 921/29, Gali no. 9, Johripur Extension, which is claimed to be existing in Delhi vide request no. 8006224457. The building structure is ground plus one floor. OP further submitted that in terms of license OP can grant electricity connection only in area assigned to it i.e. East Delhi. OP has no authority and power to provide electricity to premises falling beyond its assigned territory. Regarding the electricity connections referred to by the complainant, it is submitted that the case of the complainant is different from the connections being referred to. The subject premises were earlier electrified through electricity connections granted by UP Electricity Board which now stands disconnected. Thus, there is no doubt that complainant's premises fall in UP. In its reply OP also raises issue of unprecedented load growth due to DMRC network nearby and its inability to augment its network-the area being in UP and safety hazard due to intermixing of Delhi UP network.
3. Complainant by filing rejoinder reiterating his stand that his premises is situated within the jurisdiction of Delhi states that officials of respondent had released several connections in nearby properties particularly one connection is released in adjacent property bearing no. D-56 of same area vide CA No. 153804941 on 02.06.2022. He also submitted that the property is purchased by the complainant by way of GPA as detailed in Khata Khatoni and copy of said Khata Khatoni is already on record and according to which the applied premises falls in Delhi. In support of his case complainant has placed on record copy of GPA set in his favour along with ownership papers of its previous owner. Copy of Khata Khatoni issued by Delhi Revenue Authority and copies of OP bills.

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4. In support of its claim the only document submitted by OP is copy of disconnection notice issued by Office of Executive engineer, Electricity Distribution Khand-I, Industries Area, Roop Nagar, Loni Ghaziabad, issued in the name of Smt. Sunita R/o Johri Pur, Last Gali, Loni, Ghaziabad, UP. As per OP on upper portion of this receipt is written name of one Hemant which is shown as son of Omvir and this Omvir is the complainant herein.
5. Heard the parties and perused the record.
6. Going through the pleadings and after hearing both the parties the main issue to be decided is as to which state has jurisdiction over the applied premises-Delhi or UP.
7. Perusal of Khasra/Khatauni placed on record by complainant shows that Delhi Authorities has issued these Khasra/Khatauni revealing the same as Delhi properties. GPA set as well as chain of this property specifically shows that applied address falls in Delhi. Perusal of copies of bills issued by OP also shows that address, on which these connections are installed, also fall in Delhi. Going through OP's document, namely disconnection notice issued by UP Discom, its consumer is one Sunita s/o Sunil Kumar R/o Johripur last Gali, UP. But no number of premises or gali is given therein while complainant's address is properly numbered. OP's contention, that upper part of this notice bear the name of Hemant s/o Omvir who is complainant herein, is also not supported by any cogent evidence that this Omvir and present complainant are one and the same persons. Even otherwise consumer in the said notice is shown some stranger than the present complainant<sup>ant</sup>. Now merely on the <sup>ant</sup> basis of vague address it can't be determined that entire area of Johripur falls in UP.

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May be part of the same falling in UP and part in Delhi. OP was asked to place any other document in support of their contention that the premises of the complainant falls under jurisdiction of UP, but OP failed to do so. 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 falls in UP jurisdiction. Therefore, it becomes its duty to prove its case, which OP has failed to. Not only this, the very existence of OP's connections in nearby premises further strengthens complainant's case as per bills, issued by OP vide CA No. 153678079 and 153804941, placed on record by the complainant. While OP nowhere provided details of UP connections if any in the said area. Regarding Ops pleas of its inability to augment its network and intermixing network, once OP is unable to prove that the subject area falls in UP and UP network is working there, these issues have no relevance.

8. Regarding Yashoda Devi case and bi-annual Report as pleaded by the OP this case is not applicable in the present case as it has specifically ruled that OP had given connections in UP area further holding that no consumer living beyond the boundary of Delhi is given connections.....". While OP has failed to prove that the applied area falls in UP. We have also gone through other 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

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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 connections. Later on, demarcation took place, whereby about 209 of properties fell; 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 alleged UP area itself on pre-paid meters till proper demarcation took place.

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 to which a person cannot be deprived off.

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On the basis of above said facts and circumstances and rulings of the courts, prima-facie complainant is able to substantiate his claim while we find nothing on record on behalf of OP in support of its defense that the applied premises does not fall in Delhi.

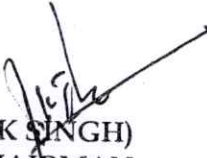
ORDER


Complaint is allowed. Respondent is directed to release the connection applied for by complainant, after completion of all the commercial formalities, without asking him for any NOC, subject to technical feasibility and taking care of safety hazards, subject to the condition that in case competent authority decides the area to be falling in UP, OP shall be at liberty to disconnect the same to which complainant shall have no objection.

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.

  
(P.K. SINGH)  
CHAIRMAN

  
(S.R. KHAN)  
MEMBER-TECH

  
(P.K. AGRAWAL)  
MEMBER-LEGAL

  
(NISHAT AHMAD ALVI)  
MEMBER-CRM

  
(H.S. SOHAL)  
MEMBER

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