



C A No. Applied For  
Complaint No. 127/2022

In the matter of:

Paramjit Kaur .....Complainant

VERSUS

BSES Yamuna Power Limited .....Respondent

Quorum:

1. Mrs. Vinay Singh Member(Law)
2. Mr. Nishat Ahmad Alvi, Member (CRM)

Appearance:

1. Mr. Shanky R.S. Gupta, A.R. of the complainant
2. Mr. Imran Siddiqi, Ms. Shweta Chaudhary & Ms. Pragya Paliwal,  
On behalf of BYPL

ORDER

Date of Hearing: 23<sup>rd</sup> August, 2022  
Date of Order: 31<sup>st</sup> August, 2022

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

Briefly stated facts of the case are that the complainant applied for new electricity connection but respondent has not released the same till date.

As per the complainant on her application for new electricity connection at her Ground Floor in Premises no. 69, Pocket-D, Mayur Vihar, Phase-II, Delhi-110091, respondent issued a deficiency letter stating its inability to grant new connection on two grounds (i) there is no separate dwelling unit and (ii) the

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premises concerned are in the objection list of MCD. Complainant denied the objections and provided completion-cum-occupancy certificate of the premises issued by EDMC on 06.03.2022. But even after submission of this certificate complainant's application was rejected by the respondent on the ground that as per communication received from EDMC the completion cum occupancy certificate is issued by a debarred Architect. Hence, the same should not be acted upon. Complainant by way of this complaint denying both the objections prayed this Forum to direct the respondent to grant new electricity connection in her premises as applied for.

On Notice to respondent, by filing its reply, it reiterated its both objections further adding that on 07.03.2022 they have received email by Executive Engineer (Building) MCD that BSES should not consider completion-cum-occupancy certificate issued by debarred Architect Mamta Aggarwal as per enclosed list for any purpose till the final outcome of the inquiry against the said Architect.

In rejoinder to this reply complainant reiterating her stand submitted list of a number of connections released by the respondent on the basis of completion-cum-occupancy certificate issued by EDMC report given by this very Architect Mamta Aggarwal, further charging respondent for discrimination against her.

Vide order dated 04.08.2022 of this Forum respondent was directed to inspect the premises in question for clarification regarding separate dwelling unit objection. In compliance whereof after inspection respondent by filing its report stated that the premises is a DDA flat and commercial connection is applied for Saloon where already a domestic meter exist vide CA No. 101027505 (DX).

*Dr.*

*Dr.*

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Finally both the parties delivered their respective arguments on 23.08.2022.

Going through the pleadings of both the parties and considering their respective arguments, we have to consider the two objections i.e. (i) as to whether the premises is a separate dwelling unit or not ? and (ii) as to whether the occupancy-cum-completion certificate produced by the complainant on 06.03.2022 in removing deficiency is a validly issued document or not ?

Regarding the first objection of separate dwelling unit site inspection report filed by the respondent in compliance of order dated 04.08.2022 is silent. Neither this objection is re-agitated by the respondent. Hence, we find no force in this objection of the respondent.

Regarding validity of occupancy-cum-completion certificate going through the documents itself we find that the same is duly issued by Executive Engineer, East Zone MCD on 06.03.2022. This certificate specifically states that report of the Architect is as per provisions of structural safety specified in the relevant prevailing IS codes/standards/Guidelines as per notification no. SO-248 (E) dated 21.03.2001 and relevant clauses of bye laws. Not only this it also states that for fire safety the same has been based on the clearance given by Chief Fire Officer, Govt. of NCT of Delhi. Respondent also states that the inquiry against concerned Architect is still pending and is not concluded. In this scenario we find no point in MCD communication thereby restraining respondent to act on the occupancy-cum-completion certificate which is otherwise executed/issued by corporation's own officer as per contents aforesaid while at the particular time the Architect was not barred and the completion-cum-occupancy is not nullified by the EDMC.

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On the other hand though complainant has produced particulars of other connections granted by respondent on the basis of OCC certificate issued on the basis of this very Architect but no date of report or connection is given. Hence, we don't find ourselves to take any decision on the basis of these grants of connections.

Perusal of letter of Sh. S.D. Tomar, Executive Engineer (Building) Nodal Officer, placed on record by respondent, shows that it requires that respondent should not consider completion-cum-occupancy certificate till the final outcome of inquiry against the Architect. This shows that the respondent as well as EDMC are not still clear as to the validity of the completion-cum-occupancy certificate. In these circumstances we are afraid that rejecting complainant's application for new connection basing on a question which is still to be decided, may be injustice to the consumer, while Hon'ble courts in their various judgments have categorically held that the electricity being an essential amenity can't be denied to the consumer and right to electricity is an extended fundamental right.

On the basis of aforesaid observations this Forum is of the considered view that objection of Separate dwelling unit has no basis while objection of premises being in MCD list has been removed by submission of completion-cum-occupancy certificate dated 06.03.2022 which is prima facie and un-rebutted and validly executed document.

1. Therefore, we direct Respondent to release the connection to the complainant after fulfilling all the commercial formalities as per DERC Guidelines 2017.

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2. The complainant is also directed to file an affidavit before the release of the connection undertaking that if in near future MCD concludes and proves beyond any reasonable doubt that the completion-cum-occupancy certificate is not legally valid document and wrongly issued by them, then respondent can ask complainant to file legally valid completion-cum-occupancy certificate, failing which it can disconnect the supply.
3. 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 AHMED ALVI)  
MEMBER (CRM)



(VINAY SINGH)  
MEMBER (LAW)