

C A No. Applied for
Complaint No. 175/2022

In the matter of:

Prabhat BansalComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

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

Appearance:

1. Mr. Vinod Kumar, Counsel of the complainant
2. Ms Ritu Gupta, Mr. Imran Siddiqi, Mr. Deepak Jain, Ms. Shweta Chaudhary, Mr. Shubham Singh & Ms. Divya Sharma, On behalf of BYPL

ORDER

Date of Hearing: 17th January, 2023

Date of Order: 24th February, 2023

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

1 As per complaint, complainant applied, to the OP, for grant of new electricity connection, vide request no. 800536557, in his premises bearing no-A-10, GF, Bhajatji Sweets Wali Gali, RST Enclave, Kardam Farm Colony, Delhi-94.

In response OP issued deficiency letter which shows no deficiency. Later on in response to complainant's e-mail dated 01.08.2022, OP replied that new connection could not be processed as the premises is found in U.P area and no BYPL network exists near the premises.

Nishat Ahmed

Complaint No-175/2022

Complainant, nullifying OP's contention, further states that there are number of connection also given by the OP in the nearby premises. Claiming his premises to be in Delhi, Complainant has prayed to this Forum for directions, to the OP, to release the new electricity connection, in the applied premises, besides compensation.

2. OP by filling its reply has denied complainant's version that premises are in Delhi, stating that premises were re-visited on 06.08.2022, and again it was found that applied premises falls in UP and no BYPL network is available near the applied premises. Hence, it is not in a position to grant connection in the said premises.
3. In rejoinder to the OP's reply, reiterating his stand, complainant refers Khasra no. wherein the applied premises falls, pertains to Delhi. Not only this but OP has booked Direct Theft cases also against complainant on 26.07.2022, on this very premises.

In rebuttal OP states that there is mismatch of Khasra nos. regarding theft bill OP states that these bills were issued in respect of other premises and not against applied premises.

4. In support of their contentions complainant has filed Aadhar Card, Khasra and Khatauni, two GPA sets, theft notice/bills/inspection report. On the other hand OP has filed revisit report dated 30.10.22, photograph of meter in the name of mother of complainant, claiming to be in applied premises.
5. Heard and perused the record.



Complaint No. 175/2022

6. From the pleadings we found that main dispute is of jurisdiction. Coming to the evidence submitted by complainant if we go through Aadhar Card we find that it has UP address while the no of the premises is same as of applied premises. Perusal of GPA sets show that the applied premises were initially purchased by complainant's mother from its then owner Ved Ram from whom he has got ownership thereof. However, these GPA sets are not registered documents and are only notarized which raises question as to the legality of these documents. With respect to theft documents, going through the theft bills/theft notices and inspection report all falsify OP's contention that it relates to other address than the applied one. On perusal of Khasra and Khata documents it is revealed that though there is mismatch of Khasra nos and Khata nos. But both Khasra nos whether it be 30 or 48 come under Karawal Nagar Area of Delhi.
7. Coming to the OP's evidence visit report shows that OP found the said premises in UP area. OP also found that there are no connections of OP in said area. Photograph of meter filed, allegedly found in applied premises bears name of U.P. Discom, issued in the name of complainant's mother, but with no address to find out as to whether it is in U.P. or Delhi. We have tried to find out address of this meter on U.P. Discom Portal and found that it is installed in house no-10, Block-A, of Indra Enclave, Loni Ghaziabad (U.P.) falling in khasra no-839. Again, OP taken plea that on right and left of the applied premises U.P. meters are installed. But no CA no's of those connections are provided. In the absence whereof we are not able to verify OP's stand.

We have also gone through various orders/judgments passed by various forums and Courts. In Ram Kumar Vs BSES Yamuna Power Limited,

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Complaint No. 175/2022

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 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.

Finally, Ombudsman ruled that revenue records be taken in to account for deciding dispute of jurisdiction.

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 connection. Later on, demarcation took place, whereby about 209 of properties fall, 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



Complaint No. 175/2022

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.

8. In another case titled as Dilip (dead) ER Vs Satish SCC online SC810 dt. 13.05.22, Hon'ble Supreme Court has held that electricity is a basic utility, which person cannot be deprived off Apart khasra nos falling in Delhi, OP's claim of having no network in the concerned/nearby area is also found baseless in as much as OP has failed to prove that the Theft notices, issued by it, were not issued against applied Premises.
9. On the basis of above findings we reach to the conclusion that only conclusive evidence to decide jurisdiction is Revenue record of a particular state. Thus to produce the said record lies on both the parties. Here only complainant has filed khasra Girdhwries/khata, issued by revenue authorities of Delhi. But OP has produced no such documents of U.P. state to establish the claim of premises to be falling in U.P.

Though there is mistake of khasra nos but both the khasra nos whether the 30 or 48 both are shown in revenue jurisdiction of Karawal Nagar Area of Delhi. Revenue record submitted by complainant remains unrebutted. Regarding GPA sets placed on record, though these are not properly registered documents, but if we read the contents thereof in conjunction with the Khata, placed on record, we find that Ved Ram who executed these documents in favour of mother of the complainant, was owner of part of Khasra no-48 which falls in the revenue jurisdiction of Karawal Nagar Area of Delhi. Electricity is a necessity as also held by various courts and it cannot be denied merely on none- clarity of jurisdiction. One who take the plea of no jurisdiction has to produce concrete/sub substantial proof thereof and cannot deny relief on the basis of hearsay only. Thus, second objection of OP, of having no network also stands not proved as aforesaid.




Complaint No. 175/2022


On the basis of aforesaid findings and in the light of order passed as aforesaid in out considered opinion OP has no substantial ground to reject complainant's application for new connection on the pretext of jurisdiction.

Complaint is allowed. Respondent is directed to release the connection applied for by the complainant in his premises, bearing no-A-10, Ground Floor, Bhagatji Sweets Wali Gali, RST Enclave, Kardam Farm Colony, Delhi-94 on pre-paid meter basis, after completion of all the commercial formalities subject to the condition, that grant of connection is feasible, keeping in view all the safety measures required as per Central Electricity (measures relating to safety and electricity supply) Regulations 2010, particularly after ensuring that no connection belonging to U.P. Discom exists in the said premises and OP shall be entitled to disconnect supply if later on Revenue Authorities after demarcation come to conclusion that the address concerned falls in U.P.

The case is disposed off as above.

No order as to cost/Compensation.


NISHAT A. ALVI
MEMBER (CRM)


(P.K. AGRAWAL)
MEMBER (LEGAL)


(S.R. KHAN)
MEMBER (TECH.)