



C A No. Appiled For  
Complaint No. 345/2023

In the matter of:

Rajnish Kumar Gaind .....Complainant

VERSUS

BSES Yamuna Power Limited .....Respondent

Quorum:

1. Mr. P.K. Singh, Chairman
2. Mr. Nishat A 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. Rajnish Kumar, Complainant
2. Ms. Ritu Gupta & Ms. Shweta Chaudhary, On behalf of BYPL

ORDER

Date of Hearing: 19<sup>th</sup> December, 2023

Date of Order: 27<sup>th</sup> December 2023

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

1. Present complaint has been field by the complainant for restoration/new electricity connection vide CA No. 100615139 at his premises on Ist floor of property no. 105-106, Triveni Plaza bearing premises no. 17A/56, WEA, Karol Bagh, Delhi-110005, on the allegations that the said connection was disconnected by the OP without any intimation to him on 11.01.2021. Even after disconnection OP kept on issuing bills of

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electricity which complainant has duly paid, having no knowledge of disconnection he paid OP's bills on 22.02.2021, 11.08.2021, 03.09.2021 and 24.11.2021. As a matter of fact the subject premises were tenanted out to one M/s Railtech Infraventure, who, became defaulter of rent and denied possession of the tenancy premises to the complainant. Complainant could get possession thereof only after a suit for possession and recover of rent, filed by him, was decided in his favour by District Judge Commercial, Tiz Hazari Courts, Delhi vide judgment dated 15.10.2022. On visit to the subject premises thereafter, in the second week of November 2022, the complainant was shocked to know that there was no supply of electricity therein as his said connection has since been disconnected by OP wrongfully and illegally. At the time of disconnection the complainant was not in possession of the premises.

2. Complainant states that just after knowing this disconnection he approached OP in December/January 2023, requesting it to restore the electricity. But all in vain and his electricity was not restored. Again complainant's complaint dated 20.03.2023 to OP's customer care was not responded even after so many efforts and till date the connection is not restored despite the fact the electricity charges, were regularly being, raised by OP, and the same were duly paid by the complainant and there were no pending dues.
3. As per complaint OP in disconnecting the electricity and removing the meter as aforesaid have violated Regulation 49 (1) of DERC (Supply Code and Performance Standards) Regulations 2007 as well as Section 56 of the Electricity Act 2003 by disconnecting the supply without statutory notice.

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Complainant is rightfully entitled for restoration, of electricity connection and the meter which OP denies on the pretext of the connection being dormant. Plea of dormant is wrong as for becoming dormant it is must that dues are not paid within six months of disconnection. The OP despite receiving payment of electricity charges even post disconnection did not restore the connection violating Regulation 51 of DERC (Supply Code and Performance Standards) Regulations 2007 and violated Regulation 54 (3) of DERC (Supply code and performance standards) Regulations 2017.

4. Complainant has prayed for restoration/new connection aforesaid in applied premises.
  
5. OP in its reply briefly submitted that complainant is seeking restoration of an electricity connection bearing CA no. 100615139 previously installed at premises no. 17A/56, 105, 106, Triveni Plaza, Karol Bagh, Delhi. OP further added that the electricity connection in respect of which restoration is sought was disconnected in the year 2021 for non-payment of dues. Now, as the period of 6 months to get restored the connection from the date of disconnection of the electricity meter has elapsed, no restoration of CA no. 100615139 can be sought. The complainant is required to fulfill all conditions of a new electricity connection.

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Reply also stated that the complainant had applied for new electricity connections at subject premises vide its applications bearing no. 8006236947 and 80063357801. The site was visited and upon inspection it was found that the subject premises is a commercial building having building structure as basemènt + ground +mezzanine + five floors over it. The height of the commercial building is more than 15 meters. Therefore, deficiency letters were issued for want of fire safety clearance certificate in respect of the applications of the complainant. The complainant is required to submit fire safety clearance certificate or Building completion certificate in lieu thereof.

6. The counsel of the complainant in his rejoinder rebutted the contentions of the respondent as averred in their reply and reiterated his original complaint. He further stated that even post disconnection of the electricity OP kept on raising bills, which complainant duly paid but despite receiving payments towards bills so raised the respondent miserably failed to restore electricity connection of the complainant.

7. Heard and perused the record.

Going through the entire pleadings, question to determine is as to whether the connection in dispute has become dormant or not. If yes then complainant can't claim restoration as per Regulations concerned. In this respect there is no dispute that six months have already elapsed before the complainant requested for restoration. But complainant states that rule of connection to be dormant does not apply in the present case as the conditions of the concerned regulations are not fulfilled.

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In support of his contentions complainant has referred Regulations and an order, of this Forum. Regulations of the year 2007 referred by complainant has since been repealed by DERC(Supply Code and Performance Standards) Regulations 2017 and new provision on the subject mentioned has taken place in chapter four which deals with disconnection and reconnection:-

Relevant Regulations in this chapter are Regulations 50 (1), 51 (1), Proviso (1) of 51(1), 51 (2), 54 (1) and 54 (3)

50. Grounds for disconnection:- The Licensee shall not disconnect the supply of electricity to any consumer except on any one or more of the following grounds:-

(1) If the consumer defaults in payment of the dues payable to the Licensee within the period stipulated in the notice.

51. Procedure for Disconnection:-

(1) Save as provided otherwise in these Regulations, the Licensee shall not disconnect electricity supply to any consumer without issuing him a disconnection notice, in writing, giving him at least 15 (fifteen) clear days, to be reckoned from the date of serving the same, intimating the consumer about the grounds for disconnection:

51 (2) The supply shall be disconnected only if the grounds of the disconnection as specified in the notice are not removed or rectified within the notice period.

54. Reconnection:- (1) In cases of a temporary disconnection, the Licensee shall reconnect the supply of electricity to consumer's installation within 24 hours of payment of past dues and all applicable charges, if any and completion of requisite formalities: Provided that the Licensee shall intimate all applicable charges for reconnection to

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the consumer in the disconnection notice: Provided further that if a consumer has moved out of the country and provides the documentary evidence, the Licensee shall not levy the reconnection charges.

54 (3). In case of disconnection of supply by the Licensee either erroneously or without notice, the reconnection of supply shall be made within 24 hrs from the time of such disconnection, without levy of any charges, including reconnection charges.

Going through all these Regulations we find that one of the relevant grounds for disconnection is 'defaulting payment of outstanding dues within notice period.' Further as per procedure provided in Regulation 51(1) 15 days notice is mandatory for such disconnection. Regulation 54 dealing reconnection again make it mandatory for OP to reconnect a temporary disconnection within 24 hours of payment of past dues. Regulation 54 (2) provides that if connection has been permanently disconnected consumer has to fulfill these requirements of new connection for reconnection: Again Regulation 54 (3) provides a condition on OP to reconnect within 24 hours if the disconnection is erroneously made or without issuing a notice.

Another relevant Regulation is Regulation 19

19. Termination of Agreement:-

(1) Termination of any Agreement shall be subject to the terms and conditions, including any special conditions of the agreement, entered into between the consumer and the Licensee.

(2) Save as provided in sub-regulation (1) above and without prejudice to the rights of the Licensee or of the consumer under the Act for recovery/payment of any amount due under the Agreement, the Agreement may be terminated:



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(i) by the Licensee, if the power supply to a consumer remains disconnected for a continuous period of more than 6 (six) months for non-payment of charges or dues or noncompliance of any direction issued under these Regulations, after giving a 15 (fifteen) days notice period to the consumer.

To sum up licensee can terminate agreement (with consumer) only if even after 15 days notice outstanding dues are not paid and disconnection continues for more than six months.

Further, permanent disconnection is dealt within explanation of Regulation 19 (7) as {Explanation:- For the purpose of this Regulation, permanent disconnection shall mean, a case of Termination of agreement or where power supply to a consumer remains disconnected for a continuous period of more than 6 (six) months and the Licensee shall be entitled to remove the service line and other equipment of the Licensee from the premises of consumer.

Temporary disconnection shall mean when the premises of a consumer has been disconnected due to non-payment of bills of the Licensee upto a period of 6 (six) months and during period of Temporary Disconnection, the Licensee shall not remove its service line and other equipment upto a period of 6 (six) months}.

While 19 (7) says Any application for revival of the connection after permanent disconnection shall be treated as an application for new connection and would be processed only after clearance of all outstanding dues applicable, if any:

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In this respect, Rule 9 (2) of The Electricity (RIGHTS OF CONSUMERS) RULES, 2020, Rule 9 (2) clearly states that "in case the disconnection has been done on account of non-payment of past dues, the licensee shall reconnect the consumer's installation within such time as specified by the commission, not exceeding six working hours of receipt of past dues and other charges as applicable."

Complainant also placed on record order of this Forum in the matter of Yamini Maheshwari Vs BSES YPL, the Forum ordered as under:

The connection in question is CA No.100932951 in the name of Kum Kum Maheshwari (the mother of the complainant) and the date of energization being 14.03.2003. The connection should have been restored by the respondent on payment of dues as above since there is no provision in the regulations for restoration request after payment of dues. The consumer did not prefer permanent disconnection and has not received any order regarding permanent disconnection of the electricity connection.

Under these circumstances, in our considered opinion, the consumer should not be denied the right to get her electricity connection restored on payment of electricity dues (for the intervening period) as per the applicable tariff order.

Accordingly, the respondent is directed to give the upto date bill for electricity dues for CA No.100932951 within one week from the date of this order and restore the connection within 3 days from the date of payment of the bill by the consumer.

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8. Perusal of record show that complainant has sent e-mails to the OP on 03.05.2023 and 11.05.2023 and 31.08.2023 apprising facts of the case with request of restoration as well as Architect Certificate confirming height below 15 meter. On the other hand OP has neither specifically denied complainant's allegation of no notice nor provided any detail of electricity dues. Thus it is established that OP prior to disconnection neither claimed any dues nor issued any notice for disconnection for non-payment of dues.

Going through the provisions of Act and the concerned Regulations aforesaid we find that it is mandatory on the OP to issue 15 days notice to the consumer requiring to pay outstanding dues, prior to the disconnection. On the other hand it is not mandatory on the complainant to make a formal request in writing to restore the connection after payment of outstanding dues. Here in the present case OP has failed to deny complainant's plea of payment even after disconnection. Neither there is any specific plea of outstanding of any of the bills on the subject connection. In the facts and circumstances OP's pleas of connection being dormant is baseless and illegal. Consequently OP is bound to restore the connection as if the same not being dormant. There seems no need to consider questions of grant of new connection, the complainant being entitled for restoration.

9. Water and electricity are integral part of right to life. Hon'ble Supreme Court in the matter of Dilip (Dead) LR vs Satish, in case no. SCC online SC810 dated 13.05.2022 has held that electricity is basic amenity which a person cannot be deprived off. Even on the principle of law there should be equity before law and equal protection of law in the spirit of constitution.

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ORDER


Complaint is allowed. OP is directed to restore the electricity supply of disconnected connection vide CA No. 100615139 in the name of the complainant, installed on property no. 105-106 on 1<sup>st</sup> floor of Triveni Plaza in premises no. 17A/56, WEA Karol Bagh, Delhi-110005 after completing commercial formalities.

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


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

  
(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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