

C A No. Applied For
Complaint No. 105/2023

In the matter of:

Ramesh Gupta 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. Riitu Gupta, Mr. R.S. Bisht, Mr. Ravi Tiwari Ms. Chavi Rani,
On behalf of BYPL.

ORDER

Date of Hearing: 11th July, 2023
Date of Order: 14th July, 2023

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

1. This complaint has been filed by Sh. Ramesh Gupta, against BYPL-DRG.
2. The brief facts of the case giving rise to this grievance are that complainant Sh. Ramesh Gupta has applied new connection in House no. B-40, Vikram Nagar Firoz Shah Kotla Delhi-110002, vide application

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no. 8006144598, 8006144583, 8006144591 and 8006144594. The application of consumer was rejected by Opposite Party (OP) BYPL on the pretext that 'Pole found encroached upon by applicant Removal of existing meter required and MCD NOC or completion and Occupancy Certificate required.'

3. The respondent in reply briefly stated that new electricity connection has been applied by Ramesh Gupta vide request no. 8006144598 for 3rd floor, 8006144583 for Ground floor, 8006144591 for First Floor and 8006144594 for 2nd floor. On site inspection dated 10.06.23 it was found that the building structure is G+3 (Domestic type), Temporary meters exists at this building, M.No- 35763120 and Pole encroached found. Distance between pole and building is (-) 0.5 ft approx. & encroached from stairs, therefore, it is violation of Rule 79 & 80 of Electricity Rules 1956. Hence, application was rejected.

OP further added that applied address was found in MCD objection list. MCD issued list of unauthorized property vide letter no-D879/A.E(B)-III/CNZ/2022 dated 24.03.2022. Thus the subject property is booked by MCD for unauthorized construction.

It is also their submission that building in issue has been constructed in violation of the provision of Regulation 60 & 61 of the Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010 and Section 53 & 68(5) read with Section 161 of the Electricity Act, 2003.

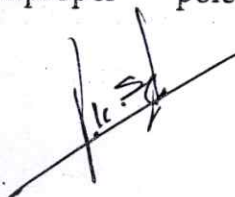
4. Heard both the parties and perused the record.
5. The issue is whether the connection of the complainant vide application number 8006144598, 8006144583, 8006144591 and 8006144594 can be released, if there is improper pole clearance and MCD Booking.

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6. The Authorized Representative of the complainant has argued that he has applied for new connections vide application no. 8006144598, 8006144583, 8006144591 and 8006144594 at house no. B-40, Vikram Nagar Firoz Shah Kotla Delhi-110002 which were rejected by OP-BYPL on the pretext of 'Pole found encroached upon by applicant, Removal of existing meter required and MCD NOC or completion and Occupancy Certificate required.' Whereas, Complainant has submitted sanctioned building plan & B.C.C. issued by the MCD on 01.04.23. The counsel of the complainant also filed site photographs that pole is not encroached inside the building.
7. Legal Representative of the BYPL has argued on basis of evidence available on record. Respondent is restrained from granting fresh electricity connections in the premises which are appearing in MCD objection list. Electricity connection to complainant cannot be given in view of Safety Regulations in 79 & 80 of Electricity Rules 1956 and Rule 60 of Central Electricity Authority (Measures relating to safety and electric supply) Regulations 2010.
8. Before disposing off the application of the complainant, it is relevant to discuss the rules and regulations applicable to this issue.
9. Provision of the Rule 79 & 80 of Electricity Rules 1956 is as follows:

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S. No.	Lines/installations	Minimum vertical clearance where line is passing above a building/structure/balcony etc.	Minimum Horizontal clearance where line is passing adjacent to a building/structure/balcony etc.
1.	Low or medium voltage lines and service lines upto 650 v	2.5. meters from the highest point	1.2 meter from the nearest point
2.	High Voltage line upto and including 11,000 volt	3.7. meters from the highest point	1.2 meter from the nearest point
3.	High Voltage line above 11,000 volt and upto and including 33000 volt	3.7. meters from the highest point	1.2 meter from the nearest point
4.	Extra High Voltage line above 33000 volts	3.7. meters from the highest point (Plus 0.30 meter for every additional 33000 volts or part thereof)	2 meters (Plus 0.30 meter, for every additional 33000 volt or part thereof.

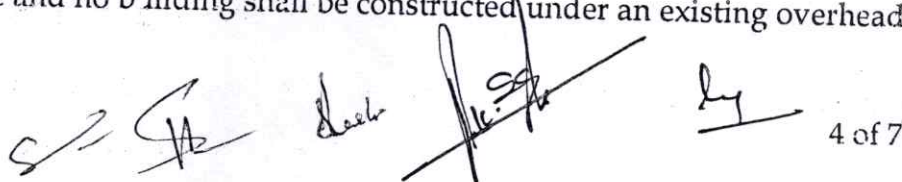
10. Central Electricity Authority (Measures relating to safety and electric supply) Regulations 2010 is as follows:

60. Clearance from buildings of lines of voltage and service lines not exceeding 650 Volts.-

(1) An overhead line shall not cross over an existing building as far as possible and no building shall be constructed under an existing overhead

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(2) Where an overhead line of voltage not exceeding 650 V passes above or adjacent to or terminates on any building, the following minimum clearances from any accessible point, on the basis of maximum sag, shall be observed, namely:-

(i) for any flat roof, open balcony, varandah roof and lean-to-roof-

- (a) when the line passes above the building a vertical clearance of 2.5 metres from the highest point, and

- (b) when the line passes adjacent to the building a horizontal clearance of 1.2 metres from the nearest point, and

(ii) for pitched roof-

- (a) when the line passes above the -building a vertical clearance of 2.5 metres immediately under the line, and

- (b) when the line passes adjacent to the building a horizontal clearance of 1.2 metres.

(3) Any conductor so situated as to have a clearance less than that specified above shall be adequately insulated and shall be attached at suitable intervals to a bare earthed bearer wire having a breaking strength of not less than 350 kg.

(4) The horizontal clearance shall be measured when the line is at a maximum deflection from the vertical due to wind pressure.

5) Vertical and horizontal clearances shall be as specified in schedule-X.

Explanation: - For the purpose of this regulation, the expression "building" shall be deemed to include any structure, whether permanent or temporary.

11. The factual position of the case, as apparent from the inspection report and documents placed on record, the distance of premises from concerned electricity pole is not 1.2 meter as required by the above mentioned law.

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The pole is adjacent to building whereas the respondent has already given many connections from the same pole to the neighboring buildings which are evident from the perusal of photographs placed on record. Even as per law as mentioned in Regulation 60 (3) of above Regulation 2010 if the distance is less than 1.2 meter, connection can be given if it is adequately insulated. There is no dispute regarding the fact that the supply of electricity is totally insulated wire. Hence, on this very ground complainant cannot be deprived of the electricity connection.



Regarding the other objection of the respondent that the premises of the complainant are appearing in the MCD objection list, in this regard the premises were booked on 24.03.22 and the complainant filed Completion Cum Occupancy Certificate issued by MCD of Delhi on dated 01.04.23. OP was given ample time to confirm the B.C.C. submitted by the complainant from the issuing authority but OP failed to confirm the same.

12. 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. In the present circumstances of two consumers of GF & FF has been given connection and on the basis of no proper clearance from the pole complainant cannot be deprived off connection.



13. We are therefore, of the view that the respondent may be directed to provide the connection with the condition that at the time of release of new connection the complainant should file an affidavit that if MCD takes any action against the encroached property then OP should be at liberty to disconnect the supply of the complainant.

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ORDER

Complaint is allowed. Respondent is directed to release the connection applied by complainant after completion of all the commercial formalities and after giving the undertaking regarding the fact that whenever MCD in future will take action against the illegal construction, OP is free to disconnect the new electricity connection.

The case is disposed off as above.


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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