

C A No. Applied For
Complaint No. 192/2022

In the matter of:

SaritaComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

1. Mr. P.K. Singh, Chairman
2. Mr. Nishat Ahmad 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. Imran Siddiqi, Ms. Shweta Chaudhary, Mr. Prateek Pahwa & Ms. Divya Sharma, On behalf of BYPL

ORDER

Date of Hearing: 09th February, 2023
Date of Order: 21st February, 2023

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

1. This complaint has been filed by Smt. Sarita, against BYPL-KWN.
2. The brief facts of the case giving rise to this grievance are that complainant Smt. Sarita applied for new connection vide request no. 8005712821 at her premises no. C-539, GF, Nearby building School, Gokalpuri, Delhi--110094.

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She further submitted that respondent rejected her application for new connection on the pretext of "ownership dispute/court case" which is fake ground.

3. The respondent in reply briefly stated that the complainant is seeking new electricity connection against request no. 8005712821 at premises bearing no. C-539, GF, Gokul Puri, Delhi. During site visit on 30.05.2022, technical feasibility was rejected on account of mail dated 23.06.2022 received from O&M department whereby no new connection was to be granted at premises no. C-538 and C-539. As such deficiency letter was issued on account of objections raised by O&M department but inadvertently in deficiency letter reason mentioned was ownership dispute.

OP further added that on 23.06.2022 inspection was carried out by the officials of respondent whereby it was found that electricity pole no. KWN H194, which was installed in front of house no. C-538 and C-539, Gokul Puri, was missing and overhead LT network was found supported on angle fixed on the wall of above said premises.

Earlier also in year 2021, an inspection was carried out at above premises and it was found that balconies of house were extended to the electricity pole and as such one notice was issued to the registered consumer of an electricity connection bearing CA No. 152144527. The said notice dated 07.12.2021 was for violation of Sections 53 & 68(5) read with Section 161 of Electricity Act 2003.

As owner/occupant/representative of subject premises have dismantled the pole of respondent and has interfered with electricity lines and equipment of respondent as such the subject premise cannot be electrified by way of fresh electricity connection till unauthorized construction is removed and pole and overhead LT network are restored back to its original position.

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4. Heard both the parties and perused the record.
5. The issue is whether the new connection can be released to the complainant in view of electric pole in front of house of the complainant got missing.
6. The Authorized Representative of the complainant has argued that one old connection having CA No. 152144527 was in the name of complainant Sarita Devi which was removed by OP on the application of complainant herself on 07.12.221 and thereafter applied for the new connection in her premises no. C-539, GF, Gokal Puri, Delhi vide request no. 8005712821 on ground floor which was rejected on the ground that on inspection carried out by official of respondent electricity pole no. KWN H 194 which was installed in front of H.No. C-538 and C-539, was missing and FIR was lodged against the owner of both houses C-538 and C-539 hence new connection cannot be granted. ✓ Whereas, new connection has been given by OP at house no. C-538, hence, on basis of equality the complainant cannot be denied this basic amenity.
7. Representative of respondent has submitted that preliminary connection having CA No. 152144527 in name of complainant Sarita Devi w/o Sh. Manohar Lal was installed at address C-538 and C-539, FF, Gokul Puri, Delhi. One notice was issued to registered consumer of electricity connection bearing CA No. 152144527 on dated 07.12.2021 regarding violation of Sections 53 & 68 (5) read with Section 161 of Electricity Act 2003 regarding balconies of house was extended to electricity pole. This connection was removed and complainant applied new electricity connection vide application no. 8005712821 bearing house no. C-539, GF, Gokul Puri, Delhi and during site inspection it was found that pole no.

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KWN H 194 installed in front of house no was missing and overhead LT network was found supported on angle fixed on the wall of above said premises. FIR has been lodged in the office of SHO, under section 136 and 138 of the Electricity Act 2003 against owner of house no. 538 and 539. ✓ The connection to the house no. C-538 has been given before lodging of this FIR against which action is pending. Regarding the disconnection, since it is violation of DERC Regulation, now connection cannot be granted on this basis.

8. The relevant provision for this complaint are Section 53 and 68 (5) of Electricity Act 2003 and Section 136 and 138 of Electricity Act 2003 and Rule of DERC Regulations are narrated below:

Section 53. (Provisions relating to safety and electricity supply): The Authority may in consultation with the State Government, specify suitable measures for -

- (a) protecting the public (including the persons engaged in the generation, transmission or distribution or trading) from dangers arising from the generation, transmission or distribution or trading of electricity, or use of electricity supplied or installation, maintenance or use of any electric line or electrical plant;
- (b) eliminating or reducing the risks of personal injury to any person, or damage to property of any person or interference with use of such property ;
- (c) prohibiting the supply or transmission of electricity except by means of a system which conforms to the specification as may be specified;
- (d) giving notice in the specified form to the Appropriate Commission and the Electrical Inspector, of accidents and failures of supplies or transmissions of electricity;
- (e) keeping by a generating company or licensee the maps, plans and sections relating to supply or transmission of electricity;
- (f) inspection of maps, plans and sections by any person authorised by it or by Electrical Inspector or by any person on payment of specified fee;
- (g) specifying action to be taken in relation to any electric line or electrical plant, or any electrical appliance under the control of a consumer for the purpose of eliminating or reducing the risk of personal injury or damage to property or interference with its use.

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Section 68. (Provisions relating to Overhead lines): (5) Where any tree standing or lying near an overhead line or where any structure or other object which has been placed or has fallen near an overhead line subsequent to the placing of such line, interrupts or interferes with, or is likely to interrupt or interfere with, the conveyance or transmission of electricity or the accessibility of any works, an Executive Magistrate or authority specified by the Appropriate Government may, on the application of the licensee, cause the tree, structure or object to be removed or otherwise dealt with as he or it thinks fit.

9. To sum up OP alleges that there is violation of Regulation 11 (2)(iv)(c) of DERC (supply Code and Performance Standards) Regulation 2017, hence, connection cannot be granted. As per this Regulation Licensee/OP^{Shell} not sanction the load, if upon inspection, the licensee finds that there the energization would be in violation of any provision of the Act, Rules, Regulations or any other requirements if so specified or prescribed by the commission or Authority under any of their Regulations or order.

To determine as to the alleged violation of Act, Rules, etc, we have to consider the notice issued under regulation 60 & 61 of 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. As well as FIR lodged u/s 136 and 138 of the Electricity Act 2003.

For this purpose going through the definition of Regulation 60 & 61 aforesaid we find that it mandates to follow a minimum horizontal and vertical clearance required to be maintained from the electricity mains/installations for any

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building/structure/balconies/verandas/roof/chajja where an extra high/medium/low voltage line passes above or adjacent to any building or part of the building to avoid any electrical accident.

Section 53 and 63 read with Section 161 of the Electricity Act, also provide for safety measure. As per said notice dated 07.12.2021 complainant was charged with extension of chajja/balcony which was in contravention of provisions of Regulation 60 & 61 and Section 53 & 68 aforesaid. By way of this notice complainant was called upon to remove the said illegal structure.

Going through FIR u/s 136 & 138 of electricity Act, we find that complainant's husband was charged with the theft of the pole installed in from of the premises no. C-538 and C-539 of the complainant.

Section 136 deals with theft of any electric like/material while section 138 deals with interference with meters or works of license. Both these sections provides that these are criminal offences and ^{for} punishment of imprisonment and fines. But no where it provides that the offender under these sections shall not be granted electricity connection if he fulfills the safety measures as per provisions of Regulations of 2010 aforesaid.

In the present case OP has raised a deficiency of pole theft only which too is still under investigation and not finally decided consequently.

Thus we are of the considered view that there is no violation of Electricity Act and Regulations of 2017 aforesaid and Regulation 11 (2) (iv)(c) of Regulation 2017 is no more a hindrance in granting the electricity connection in the applied premises. While various courts provide electricity as basic necessity as follows:

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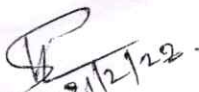
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Water and electricity are integral part of right to life. Hon'ble Supreme Court in the matter of Dilip (Dead) LR vs Satish, in case no. SCC online SC810 dated 13.05.2022 has held that electricity is basic amenity which a person cannot be deprived off.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


OP is hereby directed to grant the application of the complainant for electricity connection in the applied premises after following/getting complied by complainant all required safety measures as per Regulation 60 & 61 of Central Electricity Authority (measures relating to safety and electric supply) Regulation 2010 as well as Section 53 & 68 (5) read with 161 of Electricity Act 2003.

The case is disposed off as above.


No order as to the cost. Both the parties should be informed accordingly.
Proceedings closed.


(S.R. KHAN)
MEMBER-TECH


(NISHAT AHMAD ALVI)
MEMBER-CRM


(P.K. SINGH)
CHAIRMAN


(P.K. AGRAWAL)
MEMBER-LEGAL


(H.S. SOHAL)
MEMBER

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AGRE (BYPL)