



C A No. Applied For
Complaint No. 62/2023

In the matter of:

Shivam BhutaniComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

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)

Appearance:

1. Mr. Vinod Kumar, Counsel of the complainant
2. Ms. Ritu Gupta, Mr. Imran Siddiqi, Ms. Shweta Chaudhary & Ms. Divya Jha, On behalf of BYPL

ORDER

Date of Hearing: 02nd May, 2023
Date of Order: 10th May, 2023

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

1. Present complaint has been filed by Mr. Shivam Bhutani, against BYPL-GTR.
2. The brief facts of the case giving rise to this grievance are that complainant Mr. Shivam Bhutani, is using supply through CA No. 153978358 installed at B-22/9, GF, B- block, Jhilmil Industrial Area, Delhi-95.

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CGRF (BYPL)

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It is also his case that the said connection was installed on 24.11.2022 after fulfilling all the commercial formalities as per DERC Guidelines. Thereafter, on 16.12.2022 respondent sent a disconnection notice on the pretext that the architect Mr. Ravi Kant Jha had been disabled by the MCD department. Therefore, he requested the Forum to direct the respondent for not to disconnect the supply of the complainant.

3. The OP in their reply briefly stated that the complainant is seeking fresh electricity connection for ground floor of property bearing no. B-22/9, Block -B, Jhilmil Industrial Area, Delhi-95. The complainant applied for new electricity connection vide application no. 8005950833 against which new connection was sanctioned and energized on 24.11.2022 as complainant submitted BCC issued on the basis of drawings/plans of architect Ravi Kant Jha. Thereafter, respondent received complaint wherein it was stated that the said connection was released on the basis of fake BCC. Accordingly, respondent issued mail dated 05.12.2022 and 14.12.2022 to MCD seeking verification of Building Completion Certificate issued by Sh. Ravi Kant Jha, Architect vide request ID no. 10087730 for property bearing no. B-22/9, Jhilmil Industrial Area, Delhi. MCD replied as under:-

“with reference clarification dated 05.12.2022 and 14.12.2022 sought via e-mail in respect of verification of Building completion Certificate issued by Sh. Ravi Kant Jha, Architect vide request ID no. 10087730 for property bearing no. B-22/9, Jhilmil Industrial Area, Delhi.

In context to above, it is to apprise that Sh. Ravi Kant Jha, Architect has already been debarred. Moreover, it is further apprised that the plot under reference is part of booking of B-22, Jhilmil Industrial Area, Delhi.

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You are hereby requested not to consider any completion cum occupancy certificates for the properties bearing no. B-22 or its part, Jhilmil Industrial Area, Delhi for providing new electric connection without prior permission of the department.

4. The counsel of the complainant rebutted the contentions of respondent as averred in their reply and submitted that respondent has released connections to many other consumers who also submitted BCC from the de-barred architect. He also submitted that respondent itself has verified the BCC on website approved by MCD and thereafter released the new connection. The new connection has already been issued to the complainant, thus the question of releasing new connection as averred by respondent in their reply does not arise.
5. LR of the OP submitted since the building is booked by MCD therefore, new connection is not feasible and as per DERC Regulations complainant has to fulfill all the commercial formalities as required for new connection. OP further added that they cannot release the new connection to the complainant until he submits BCC from on panel Architect of MCD.
6. As far as legal position is confirmed according to DERC (Supply Code and Performance Standards) Regulations 2017, Rule 10 (3) for the new connection proof of ownership or occupancy is required.

Performa for new connection has been provided in DERC (Supply Code and Performance Standards) Regulations 2017 as annexure 1, seven declarations are required as per performa and in this case 5th one is

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important "that the building has been constructed as per prevalence building bye-laws and the fire clearance certificate, if required, is available with the applicant."

DERC (Supply Code and Performance Standards) Regulations 2017, Rule 11 (2)(iv)(c) shows that "the Licensee shall not sanction the load, if upon inspection, the Licensee finds that;

(c) the energization would be in violation of any provision of the Act, Electricity Rules, Regulations or any other requirement, if so specified or prescribed by the Commission or Authority under any of their Regulations or Orders.

Hon'ble Delhi High court in case of Parivartan Foundation Vs. South Delhi Municipal Corporation & Others W.P. (c) 11236/2017 dated 20.12.2017 has laid down that

3. The BSES Rajdhani Private Limited and the Delhi Jal Board shall ensure that no connections are provided and water and electricity is not supplied to the buildings constructed in violation of law.

4. In case, the connections have been given to the buildings constructed in violation of law, appropriate steps in accordance with law shall be taken regarding those connections.

A similar matter of Sandip Bhutani and Anil Bhutani of the same premises B-22 and B-36 was already decided by this Forum vide CG No. 05/2022 order dated 26.05.2022 in which Forum directed the respondent to release the connections to the complainant on filing No objection Certificate from EDMC. Against the orders of the Forum,

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the complainant approached the Hon'ble Ombudsman and Hon'ble Ombudsman upheld the orders of the Forum rejected the application of the complainant stating that it is apparent that subsequent to submission of completion-cum-occupancy certifies, EDMC via mail has requested the respondent not to release the connections.

Hon'ble Ombudsman also held that appellant cannot base his argument on the wrong done (if any) by the respondent in the past and insist on doing another wrong. In a recent case of Ms. Azra Vs State (GNCT of Delhi), the Delhi High Court has dealt with the issue in their judgment dated 06.02.2022 WP(C) 2453/2019, as :-

"however, merely because some of the occupants of the building have wrongly been given an electricity connection, it cannot be a ground for the court to direct respondents no. 2 and 3 to further compound the wrong act and direct granting of a new electricity connection to the premises of the petition which is located in a building whose height is more than 15 meters."

7. Therefore, we are of the opinion that ^{Since} the Executive Engineer Building Shahdara South Zone with reference to clarification dated 05.12.2022 and 14.12.2022 has specifically mentioned that since Ravi Kant Jha, Architect has already been de-barred, ~~thus~~, not to consider any Building Completion Certificate and NOC for property bearing no. B-22/9, Jhilmil Industrial Area, Delhi and not to release any electric connection in the subjected property, Without prior permission of department. Therefore, new connection cannot be energized in above said property without fresh BCC.

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[Signature]
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[Signature]


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ORDER

Complaint is rejected. Respondent has rightly rejected the application of new connection of the complainant.

The case is disposed off as above.

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


(NISHAT A. ALVI)
MEMBER (CRM)


(P.K. AGRAWAL)
MEMBER (LEGAL)


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


(P.K. SINGH)
CHAIRMAN

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