

CA No. Applied for
Complaint No. 46/2023

In the matter of:

Shumaila Ansari

..... Complainant

VERSUS

BSES Yamuna Power Limited

..... Respondent

Quorum:

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

Appearance:

1. Mr. Suraj Aggarwal, Counsel of the complainant
2. Ms. Ritu Gupta, Mr. Imran Siddiqi, Ms. Shweta Bist, Ms. Shweta Chaudhary, Mr. Shubham Singh & Ms. Divya Sharma, On behalf of BYPL

ORDER

Date of Hearing: 02nd March, 2023

Date of Order: 14th March, 2023

Order Pronounced By:- Mr. S.R. Khan, Member (Technical)

1. Present complaint has been filed by Ms. Shumaila Ansari, against BYPL-PHG.
2. The brief facts of the case giving rise to this grievance are that complainant Ms. Shumaila Ansari, is owner of shop no. 6436, GF, situated at Gali Ishwari Prasad, Bara Hindu Rao, Delhi-110006.

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CGRF (BYPL)

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It is also her complaint that she applied for new electricity connection vide request no. 8006036659 but respondent rejected her application for new connection on pretext of dues of CA No. 100422695 and 100483256. She further added that she purchased the said shop on 22.10.2022 from Mr. Imtiaz Ansari and CA No. 100496543 was installed in subjected shop and dues of said connection were cleared by them. Therefore, they have nothing to do with the dues of other CA Nos which are installed in the other parts of the property.

3. The OP in their reply briefly stated that the complainant applied for fresh new connection at shop no. 6436, GF, Gali Ishwari Prasad, Bara Hindu Rao, Delhi. The subjected property consists of GF plus five floors. It is a mixed property with commercial activity on ground floor. The connection installed at ground floor are

(a) CA No. 100422695 in name of Sewak Singh, installed at GF under domestic category was installed on 12.01.2000 and moved out on 02.04.2009 pending dues RS.35232/-.

(b) CA NO. 100496543 in name of Imtiyaz, installed at GF under commercial category was installed on 02.04.2003 and removed on 28.07.2018 pending dues were Rs. 23745/- which were paid on 02.12.2022.

(c) CA No. 100483256 in name of Harvinder installed at GF under industrial category was installed on 01.01.1990 and disconnected on 02.04.2009 pending dues Rs. 14320/-.

OP further added that complainant purchased the subjected shop from Imtiyaz on 22.10.2022 and Sh. Imtiyaz purchased the said property from Sh. Farman in July 2002. The site plan enclosed with the property documents suggests that there were only two shops at ground floor which were in all likelihood constructed in year 2002 only. Total remaining dues on GF are of Rs. 49552 therefore pro-rata of Rs. 16,517/- can be taken from the complainant for release of new connection.

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4. The counsel of the complainant argued that the he applied for new electricity connection vide application no. 8006036659 but OP rejected his application on outstanding dues of other connections. He further added that they came into possession of the subjected shop in July 2002 and at the time of release of the new connection in July 2002 no dues were demanded from the complainant. Also, BYPL has not given any details regarding pending dues. He also submitted that if the dues are pending prior to July 2002, so they should be waived off as per Scheme floated by Delhi Government regarding waving off dues of DVB period and if the dues are pertaining to post July 2002 period he is not liable to pay them. He further added that the dues pertaining to his portion in the name of Mr. Imtiyaz have been cleared by him as they pertain to his portion.
5. The LR of the OP submitted that as per site plan submitted by the complainant it shows that there were only two shops on the ground floor which are in all likelihood constructed in year 2002 only. Thus prior to year 2002 the entire property was getting electricity through the aforesaid two disconnected connections as such the outstanding dues are claimed on pro-rata basis from the complainant.
6. Heard both the parties and perused the record. Heard the arguments of Authorized Representative of the complainant and OP-BYPL.
7. The main issue in the present complaint is whether the pro-rata dues are payable by the complainant for release of new connection.

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
8. Heard both the parties and perused the record. From the perusal of evidence placed on record pleadings and after hearing both the parties it is transpired that complainant asked for new connection at shop no. 6436, GF, Gali Ishwari Prasad, Bara Hindu Rao, Delhi-110006, but respondent raised objection that there are pending dues at the applied premises therefore, the complainant is required to clear the pro-rata share of his dues for release of new electricity connection. We observed that the connection on the shop of complainant was released in July 2002 and BSES came in July 2002 and the dues prior to that period were waived off by Delhi Government.

As far as legal position is confirmed according to DERC (Supply Code and Performance Standards) Regulations 2017, Rule 10 (4) for the new connection in sub-divided property.

10. New and Existing Connections:-

4) Sub-divided Property:-

- (i) Where property/premises have been legitimately subdivided, the owner/occupier of the respective portion of such subdivided property shall be entitled to obtain independent connection in his name.
- (ii) The Licensee shall provide the connection, to the applicant of respective portion of the legitimately sub-divided property, on payment of outstanding dues on pro-rata basis for that portion, based on the area of such sub-division or as mentioned in sub-division agreement, and the Licensee shall not deny connection to such applicant on the ground that dues on the other portion(s) of such premises have not been paid, nor shall the Licensee demand record of last paid bills of other portion(s) from such applicant(s).

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9. In view of the above, we are of considered opinion that the complainant should be granted new electricity connection after payment of pro-rata share of his portion only. Earlier OP has calculated the pro-rata share on the basis of ground floor only, but now OP should calculate the pro-rata share taking into consideration the entire building and the complainant's share thereof.

ORDER

Complaint is allowed. OP is directed to raise the revise pro-rata bill to the complainant.

OP is further directed to release the new connection to the complainant within 7 days of making payment of the pro-rata bill by the complainant.


OP should also file compliance report within 21 days from the date of this order.

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.)

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