

CA No. Applied for
Complaint No. 08/2020

In the matter of:

Sushma ThakurComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

1. Mr. Arun P Singh (Chairman)
2. Mrs. Vinay Singh, Member (Legal)
3. Dr. Harshali Kaur, Member (CRM)

Appearance:

1. Mr. N.K. Ray, Counsel for the complainant
2. Mr. Imran Siddiqi, Mr. Prashant Tikadar, Mr. Jagatheesh Kannan & Mr. B.B. Sharma, On behalf of BYPL

ORDER

Date of Hearing: 16th July, 2020
Date of Order: 21st July, 2020

Order Pronounced by:- Mrs. Vinay Singh, Member (Legal)

Briefly stated facts of the case are that the complainant applied for new electricity connection at her premises which the respondent company did not release on the pretext of service cable inside the premises.

It is also her submission that she purchased the premises bearing no. B-38, Gali No. 15, Gurudwara Road, Mandawali Fazalpur, Delhi-92 and already a connection was installed at the said premises vide CA No. 100962333, which was transferred to the name of the complainant in the year 2018 with a new CA NO. 152588416.

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She also stated that she applied for new connection on the first floor of the premises on 01.10.19 vide application no. 8004133610, which the respondent reported the complainant on 09.10.19 that the service pole is inside the premises of the complainant.

The complainant further added that she got the chajja demolished which was near the service pole, but the respondent has not granted the new electricity connection till date. It was also her submission that the premise is an old construction and no new construction has been added to it. Therefore, she requested the Forum to direct the respondent company for immediate release of the new electricity connection at the first floor of the said premises in her name.

Notice was issued to both the parties to appear before the Forum on 02.03.2020.

Respondent submitted their reply stating therein that the new electricity connection was applied by the complainant vide application no. 8004133610 on 01.10.19 at H.NO. B-38, First Floor, Gali No. 15, Gurudwara Road, Mandawali Fazalpur, Delhi-92. And the release of the said connection was denied on the ground of safety related issues as electricity pole is inside the applied premises, accordingly, deficiency letter dated 09.10.19 was issued to the complainant. It was also their submission that as per the due procedure, also a 'Notice of Accessibility' was also issued for the premises in question.

It is pertinent to mention here that during the course of hearing both the parties were directed by the Forum to conduct a joint inspection at the premises of the complainant on 04.03.2020 and also to file its report for the issues regarding height of the building, dwelling units, pole distance, AB conductor or any other issue.

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The joint inspection report was submitted by both the parties stating therein that the premise of the complainant was visited and following points were observed:-

1. AB conductor is being used.
2. There is no distance between pole and the premises of the applicant.
3. Any child standing in the balcony can easily touch/hold the wire connected to the pole.
4. Wet clothes were also found hanging near the wire on the pole.

The matter was again listed for hearing on 12.03.2020, when both the parties submitted joint inspection report. Both the parties stated that they want more time to explore the possibility of granting of connection by removing all the hurdles in the premises, including the pole.

The matter was again heard on 16.03.2020, when both the parties stated that joint inspection could not be conducted as the complainant was not well and in the hospital. Another date of 23.03.2020 was given for site inspection. Matter was adjourned to 30.03.2020.

Due to Covid19, Forum was closed and hearing is now conducted on 17.07.2020 through video-conferencing. All the parties were issued notices through e-mail and messages.

The respondent company submitted the joint inspection report which is narrated as under:-

"Premises B-38, G.No. 15, Mandawali, was visited on 20.03.2020 alongwith owner Sh. Mukesh Kumar Thakur and Smt. Shushma Thakur at around 11.20 AM, and found that possibilites for new connection are as under:-

1. Clearance above pole should be done by ^{owner}~~owner~~ of the premises.

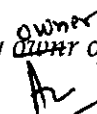
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2. Horizontal clearance of 20 cm from pole should be done by owner of the premises.
3. Dismanteled two story wire should be fixed by ^{owner} owner of the premises which were previously lying dismantled." 

Respondent company also submitted copy of accessibility notice dated 25.02.2020, issued to the complainant for violation of the minimum clearances of electrical lines/installations from building/structures/balconies/verandas/roof/chajjja etc. As per the notice the complainant has extended/raised after the construction/laying of the authorized electrical mains/associated electrical installations. This is in contravention to the provisions of Regulations 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.

The objection of the respondent is Encroachment of network pole, which is regarding distance from the building. The respondent also quoted Section 60 of the Central Electricity Authority (Measures relating to safety and electric supply) Regulations, 2010 which is stated below:-

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 line.



(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, verandah rood and lean to roof -

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

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



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(ii) for pitched roof-

(a) When the line passes above the building a vertical clearance of 2.5 meters immediately under the line, and

(b) When the line passes adjacent to the building a horizontal clearance of 1.2 meters.

(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 35 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.

The respondent company also submitted copy of the complaint written to SHO, Police Station Mandawali, dated 11.06.2020 against the complainant under Section 138 and 140 of the Electricity Act 2003, for an offence of break/injured/open to the electricity network system of BYPL for committing theft of electricity.

On final day of hearing the respondent company filed joint inspection report. They have taken the pole inside the building of the house. They have also dismantled stray wires. Respondent is unable to grant connection. Lots of opportunity has been given to the complainant to provide space for granting connection (adequate clearance for the connection), but failed to do so.

That after going through all the facts and materials available on record we feel that electricity is an essential requirement as decided by Hon'ble High court of Himachal Pradesh, that right of electricity is fundamental right.

In the matter of Saifuddin Vs CESC limited, 27 H 29 Calcutta High Court.

The Court is of opinion that electricity is the basic necessity.

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In the matter of Durga Rani Singh Vs WBSDCL, 9 May 2016 Calcutta High Court, "A person is settled occupier of any premises is entitled to get electricity connection. The right to get electricity is considered as an extended Fundamental Right.

We have gone through the submissions made by both the parties. From the narration of the facts and material placed before us, we are of the opinion that if the complainant remove all the objections raised by the respondent and fulfills all the commercial formalities as stipulated in DERC Guidelines 2017, the respondent company should release the connection of the complainant.


The case is closed with above directions.


No order as to the cost. A copy of this order be sent to both the parties and file be consigned to record room thereafter.

The order is issued under the seal of CGRF.

The compliance should be reported within 30 days. The order is issued under the seal of Consumer Grievance Redressal Forum (BYPL).


(HARSHALI KAUR)
MEMBER (CRM)


(ARUN P SINGH)
CHAIRMAN


(VINAY SINGH)
MEMBER (LEGAL)