



C A No. NA  
Complaint No. 61/2020

In the matter of:

Raju Singh

.....Complainant

VERSUS

BSES Yamuna Power Limited

.....Respondent

Quorum:

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

Appearance:

1. Mr. Rajuj Singh, the complainant
2. Mr. Imran Siddiqui, on behalf of BYPL

ORDER

Date of Hearing: 18<sup>th</sup> November, 2020

Date of Order: 1<sup>st</sup> December, 2020

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

Brief facts of the case are summarized below -

The complainant, Shri Raju Singh R/o H No 29/411, Trilok Puri Delhi-110091 applied for eleven new electricity meter connections five months ago to BYPL. The connections have not been released by BYPL on the grounds of the said property booked under unauthorized construction by EDMC. The BYPL stated that if NOC is obtained from EDMC, the process of new electricity connection could be initiated. The complainant approached EDMC and obtained NOC from there, but the same was not accepted by BYPL because it should have been

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forwarded by EDMC instead of complainant depositing the same by hand or by mail. Subsequently, EDMC sent the NOC by speed post but even after receipt of the same BYPL did not initiate process for new electricity connection. Thereafter, the complainant approached CGRF.

After registration of the complaint, notices were issued to both the parties for hearing on 27<sup>th</sup>, October, 2020. The respondent submitted as follows;

The new connection of electricity can be provided as per the law as duly provided inter-alia under the Delhi Electricity Supply Code and Performance Standard Regulations, 2017 (the supply code 2017).

The plaintiff applied for the new electricity connections vide request numbers 8004423858, 8004423860, 8004423859, 8004423863, 8004423880, 8004424688, 8004424691, 8004320257, 8004300866, 8004300870 dated 19/03/2020.

As per procedure site visit was done for want of technical feasibility. During the processing for new electricity connection, it was found that the subject premises was booked by EDMC for unauthorized construction. As the complainant submitted NOC dated, 29/06/2020 from EDMC, office of the Assistant Commissioner, Shahdara (South) Zone, a letter of authentication and confirmation of NOC letter issued by EDMC related to new electricity connection was sent to Executive Engineer EDMC, office of Executive Engineer Building -II .

In reply to the respondents letter for confirmation, respondent received a letter mentioning that, "the property number 29/ 411, 412, Trilokpuri has been booked for unauthorized construction and no electricity connection to be provided in consonance of the directions of the Hon'ble High Court (copy of letter to EDMC and reply of EDMC is enclosed here with).

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As the subject premises, where in the electricity connections are applied found to be booked by EDMC for unauthorized construction, thus, the applications for new connections rejected and new electricity connections denied and there on letter of deficiency issued to the applicant. That until the aforesaid deficiencies and objections are removed, respondent is unable to release the electricity connections on the applied premises.

The complainant has filed many NOCs dated, 16/01/2020 19/02/2020, 13/03/2020, and 29/06/2020 in which EDMC remarked " NO Objection is conveyed by this department for seeking electricity connection "The respondent also received one letter of NOC from EDMC by speed post. The respondent also received a letter from East Delhi Municipal Corporation, Office of the Executive Engineer Building-I, South Zone, regarding issuance of fake NOCs by the owners/occupier of the property quote. "It has been brought to my notice that large number of fake no objection certificate by the owner/occupiers of the properties are being submitted in the BSES Department for taking electricity connections. Therefore, EDMC directed not to issue electricity connections without ascertain the veracity of no objection certificates from Building Department, Shahdra south zone, EDMC".

In continuation of this, respondent issued one letter to EDMC on dated 20/08/2020 for verification of this NOC. This is with reference to the NOC Letter (No. 1124/AC -SH copy enclosed , dated 29/06/2020, NOC issued by Assistant Commissioner, Shahadara South Zone, EDMC to respondent regarding new electricity connection at 29/411-12 Trilokpuri, Delhi-91. The above mentioned resident has applied for new electricity connections at his premises mentioned above and submitted this NOC letter in our office. In the above letter it is mentioned that it has been clarified that no objection is conveyed for his application seeking electricity connections. This is to inform

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that the above address of the applicant on which E/C has applied for new Electricity Connections is booked by EDMC under the provisions of unauthorized construction and the same has been communicated in the earlier correspondence.

Since the premises is booked under unauthorized construction, hence the grant of new electricity connection is not permissible and if BYPL would grant, it would amount to over reaching the orders passed and or directions issued by the Hon'ble Supreme Court of India as well as High court of Delhi.

In such compelling circumstances, BYPL is writing this communication to take confirmation from your office regarding authenticity & confirmation of the letter submitted by the applicant and present status of the premises. You are, therefore, requested to convey your objection/clearance in this regard so that we may process the applicant's application for new electricity connection accordingly.

In response to letter no 6223/EE(B)-I/SSZ/2019/D-2664, dated 04/04/2019, the EDMC intimated that the property bearing no B-36, Jhilmil Industrial Area was booked for unauthorized construction without sanctioned building plan. Accordingly, no power connection can be installed in the said property in consonance of directions of Hon'ble High Court of Delhi. The property bearing number B 36 Jhilmil Industrial Area has been subdivided into various plots like B 36/1, B- 36/2 and so on.

Office in-charge (Building) Shahdara, South Zone issued letters vide no EE(B) I/Shah(S)/2020/D-2697 dated 16/01/2020 and EE(B)-I Shah(S)/2019/D-2902, dated 13/03/2020 stating therein incorrect facts in respect of unauthorised construction at property number B 36/3, Jhilmil Industrial Area, Delhi. But all the addresses have been declared as constructed unauthorizedly. This letter issued by Office in charge (Building) may be treated as withdrawn. EDMC

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will look into issuance of this incorrect letter separately. In future, No Objection Certificate (NOC) shall be treated as authentic issued under the signature of Executive Engineer (Building) Shahdara, South zone, with name and stamp. Subsequently, the EDMC vide letter dated 02/09/2020 intimated about the above mentioned property to Division Office, BYPL, Laxmi Nagar stating that the said property is booked for unauthorized construction, hence, electricity connections shall not be provided in consonance of the direction of Hon'ble High court of Delhi.

As per the provisions of Municipal Act, Delhi-1957 and Delhi Development Act 1957, notifications were issued by DDA on 22/03/2016, Chapter -I contains the provisions of regularization paragraph -2'27, any building or part there of constructed unauthorisedly with or without obtaining the sanctioned 'completion certificate communicated there-of by a written intimation /undertaking can be regularized if the same is within ambit of building by laws (BBL) and master plan of Delhi provision by paying requisite fees charges as per annexure-IV as decided in MC Mehta Vs Union of India 2019.

In case of T Vijaylaxmi Vs Town Planning Member, 2006 8 SCC 502 Hon'ble Supreme Court observed "Town planning legislations are regulatory in nature. The right to property of a person would include a right to construct a building. Such right, however, can be restricted by the reason of legislation."

In Ramchandra Ravindra Waghmare Vs Indore Municipal Corporation, 2017, 1 SCC 667, it was opined "it was also submitted that the town planning and municipal institution are regulatory and restricting the use of private property under the aforesaid Act. They are expropriatory legislation, thus, they are liable to be constructed as per regulation"

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In case of Bhavnagar University Vs Paltinana Sugarmill Company Ltd 2003 Hon'ble SC opined "The statutory interdict of use and enjoyment of property must be strictly construed. It is well settled that when statutory authority requires to do a thing in a particular manner and the same must be done in that manner or not at all. The state and other authority while acting under the said act are only the creature of the statute. They must act within four corner thereof.

After having gone through all the material aspects of the complaint, the above said building is booked for unauthorised construction vide EDMC letter dated 02/09/2020 & 26/06/2020. Hence, the electricity connection cannot be released without conforming the statutory provisions of building plan as settled in many judgments of SC.


In SC judgment in a case of Govt of Maharashtra, 27/10/2019, opined that illegal structure cannot be rebuilt without demolishing it. Rule of law compromised not only the principle of natural justice, but also provide the procedure prescribed by law must be followed. Rule of law envisage that illegal construction which are constructed in violation of law must be demolished and there can be no sympathy towards those who violate the law.

Under the above mentioned facts and circumstances, we are of the opinion that the electricity connection cannot be granted / released to the complainant without furnishing occupancy cum completion certificate.

The case is disposed off.

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)

  
(VINAY SINGH)  
MEMBER(LEGAL)

  
(ARUN P. SINGH)  
CHAIRMAN