



C A No. Applied For
Complaint No. 09/2021

In the matter of:

RuksanaComplainant

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. Vinod Kumar, Counsel for the complainant
2. Mr. Imran Siddiqi, On behalf of BYPL

ORDER

Date of Hearing: 26th February, 2021

Date of Order: 02nd March, 2021

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

Briefly stated facts of the case are that the complainant applied for new connection vide request no. 8004152922, 8004152928, but the respondent company rejected her application for new connection.

It is also her submission that she is owner of residential property bearing no. 5636, SF, Old no. 6802, (right Side), Plot No. 16, Basti Harphool Singh, Sadar Bazar, Delhi. She applied for installation of new electricity connections for domestic purpose against request no. 8004152922 at second floor in the name of

Harshali Kaur *Imran Siddiqi* *Vinay Singh*

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Ruksana and request no. 8004152922 third floor, in the name of Sajida at the said premises.

It is further stated that respondent rejected her applications for new connection on the pretext of building height more than 15 meters. Therefore, she requested the officials of the respondent to release the new connection vide request no. 8004152922 and 8004152928.

Notices were issued to both the parties to appear before Forum on 05.02.2021.

On the hearing the respondent filed their reply and counsel of the complainant filed his vakalatnama and also submitted site map of the house. Respondent was directed to file additional reply with respect to statement of accounts and consider the case for new connection because building height is less than 15 meter and also file how many connections were energized in the building and in which year.

The respondent company submitted their reply stating therein that the complainant applied for new electricity connection vide request no. 8004152922 at second floor and 8004152928 at third floor on 14.10.2019. Respondent visited the premises no. 5636, SF, Old No. 6802, (Right Side), Plot no. 16, Basti Harphool Singh, Sadar Bazar, Delhi. The site of the complainant was visited on 21.10.2019 and it was found that building height is more than 15 meters. Building structure is ground+3 and sharing common stairs with building having G+4 structure. Applicant side building height is 14.70 mtr and right side building height is 17.85 mtr which share common stairs of the complainant's building. Respondent also submitted that there are pending dues also on the said building. Details of the said dues are as follows:

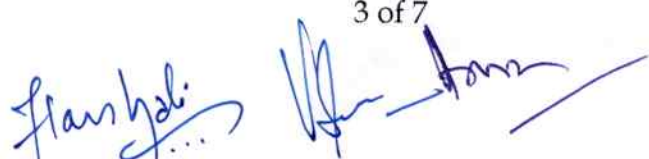
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S.No.	C.A. No.	Amount (Rs.)	Type	R/C Name	Energization Date	Disconnection Date
1	100367930	719	PD	Mahender Singh	01.01.1990	02.04.2009
2	100520621	9699	PD	Gurinder Singh	08.12.1991	14.03.2014
3	100385503	2158	PD	Som Dutta	08.12.1991	02.04.2009
4	100393457	1612	PD	Kharati Lal	30.12.1969	02.04.2009
5	100393736	235	PD	Dayal R Lal	04.09.1971	02.04.2009
6	100368401	144	PD	M/s Vaishno Das C Lal	23.12.1960	02.04.2009

After proper verification the application for grant of new connection was rejected as the height of the building is more than 15 meters and as such in terms of Supply code 2017 Fire Clearance Certificate is required.

The counsel of the complainant submitted his rejoinder refuting therein the contentions of the respondent company as averred in their reply and submitted that the building height is within limit of 15 meters. The premises were inspected by the engineer of the respondent company and found that the building height of premises in question is 14.70 meter but zeena is common in premises no 5636 and 5637 Basti Harphool Singh, Sadar Bazar, Delhi. The house no. 5637 pertains to other premises and it has no concern with the premises of the complainant and already many meters were installed in premises no. 5637 floor wise by the respondent company.



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On hearing dated 12.02.2021, respondent filed statement of account and also filed when the meters were energized. The respondent energized last meter in the said premises in 2019. Respondent was directed to file affidavit why they have energized connection in 2019. Respondent was also asked to file the statement of account of Mr. Gurinder Singh.

The matter was finally heard on 26.02.2021, when both the parties were present. Counsel of the complainant submitted that they are ready to pay the dues of Sh. Gurinder Singh of the same premises. Arguments of both the parties were heard and matter was reserved for orders.

The main issue in the present complaint is whether the connection may be released or not.

We have gone through all the facts of the case that as per following guidelines of Delhi Building By-laws 2020-2021

There are many rules and regulations to consider when it comes to building your new home. You have to comply with all the government guidelines. In this article, we will cover everything related to Delhi Building Bye Laws in depth. Building Bye governs how planned urban development is done in cities. The UBBL Delhi was largely updated in 2016 after a gap of 33 years. There have been some few changes since 2016 and we have covered them all below.

The Building Bye Laws include:

1. Ground Coverage
2. FAR
3. Setbacks
4. Height
5. General Building Requirements
 - A. Balcony
 - B. Canopy
 - C. Parapet Walls



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- D. Boundary Wall
 - E. Basement
 - F. Stilts
 - G. Lifts
 - H. Staircase
 - I. Lighting and Ventilation
 - J. Ventilation Shafts
- Delhi Building Bye Laws**

1. Ground Coverage in Delhi

The portion of the building within the outer surface of the structural wall/ column/ slab measured at ground level excluding the projection/ balcony/ canopy/ porch/ void/ shaft permitted free from FAR and cladding/curtain wall upto 150mm shall be considered as ground coverage. In common words, the area of ground you can cover on your plot is called ground coverage.

2. FAR in Delhi

For a common man FAR is the floor area ratio between the floor area and the plot area. How much you could build on your plot in terms of area considering your plot area and size. To make the FAR calculations easy for you, we have created a **FAR Calculator for Delhi**. Enter your plot details and get the results in a matter of seconds.

FAR :The quotient obtained by dividing the total covered area (plinth area) on all floors multiplied by 100 by the area of the plot.

FAR = Total covered area of all floors x 100 / Plot area

For eg: On a 251 sqm plot your FAR would be 300 hence what you can build will be a total of $(251 \times 300) / 100 = 753$ sqm as total on all floors. You have a choice to divide it to 4 floors as permitted in Delhi or as you like.

EXCLUSIONS:

The following shall not be included in covered area for FAR and Ground Coverage calculations:-

- Machine room for lift on top floor as required for the lift machine installation.
- Rockery, lift/ lift well, escalator/travelator well and well structures, plant nursery, water pool, swimming pool at any level (if uncovered), platform around a tree, tank, fountain, bench, chabutra with open top and / or unenclosed sides by walls, open ramps, compound wall, gate, slide swing door, fire staircase, fire towers, refuse area, fire control room, overhead water

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tank on top of building/open shafts, cooling towers as per fire norms. Fire tender movement shall be unhindered.

- Mumty over staircase on top floor maximum 3m height.

After going through the material aspect of the case that the respondent has objected that building height is more than 15 meters but the height of the building on the side of the complainant is 14.70 meter and the other part of the building is 17.85 meter and the stairs covering both the part of the building is less than 3 meters, which is exempted as by the Delhi Bye Laws of 2020-2021.

Electricity is essential requirement of livelihood and it is right of a person to enjoy the electricity because as it is decided by Himachal Pradesh High Court, in the matter of Madan Lal Vs State of Himachal Pradesh & Ors. Where it was stated that the right to water and electricity supply is an integral part of right to life under Article 21 of the Constitution of India.

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.

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 also been through the judgment of Hon'ble Justice Kailash Gambhir, Judge of Hon'ble High Court of Delhi in W P C No. 3132/2010 where he stated as under:-

"That the electricity being an essential amenity cannot be denied to the petitioner.

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Since the complainant is fulfilling all the requirements of new connection as per DERC Guidelines and ready & willing to pay the pending dues at the premises, so we are of considered opinion

1. That the complainant is directed to pay the pending dues of Gurinder Singh of the same premises before release of the new connection.
2. The respondent is directed to release the connection as per DERC Guidelines 2017 after fulfilling all the commercial formalities because the height of the building is less than 15 meters and the staircase height upto 3 meters are exempted as Delhi Building bye-laws.
3. The complainant will file indemnity bond/undertaking that the complainant will not increase the height of the building as above or if, any other person ~~also~~ will increase the height of the building, the complainant should intimate the respondent and respondent would take action as per law/DERC Guidelines.
4. The respondent is directed to file the compliance report within 30 days from the date of this order.

The case is disposed off accordingly.


(HARSHALI KAUR)
MEMBER (CRM)


(VINAY SINGH)
MEMBER (LAW)


(ARUN P SINGH)
CHAIRMAN