

**OFFICE OF THE ELECTRICITY OMBUDSMAN**

(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act of 2003)

**B-53, Paschimi Marg, Vasant Vihar, New Delhi-110057**

(Telephone No.: 011-26144979)

**Appeal No. 01/2020**

**(Against the CGRF-BRPL's order dated 28.10.2019 in CG. No. 17/2019)**

**IN THE MATTER OF**

**Smt. Sunita Batra**

**Vs.**

**BSES Rajdhani Power Limited**

**Present:**

Appellant: Shri D.K.Sharma, Advocate on behalf of  
Smt. Sunita Batra

Respondent: Shri Sudarshan Bhattacharjee, Senior Manager,  
Shri Manish Kumar, Senior Manager and Shri Deepak  
Pathak, Advocate, on behalf of BRPL

Date of Hearing: 17.02.2020 & 07.08.2020

Date of Order: 14.08.2020

**ORDER**

1. The Appeal No. 1/2020 has been filed by Smt. Sunita Batra through her advocate, Shri D. K. Sharma against the order of the Forum (CGRF-BRPL) dated 28.10.2019 passed in Complaint No. 17/2019. The issue concerned in the Appellant's grievance is regarding non-release of new electricity connections by the Discom (Respondent) in respect of her property bearing House No. 276, Church Road, Bhogal, New Delhi - 110014, mainly on account of the fact that the height of the building is more than 15 meters.

2. In the instant appeal, the Appellant has stated that her property bearing House No. 276, Church Road, Bhogal, New Delhi, measuring 108 square yards is a construction consisting of basement, stilt parking, ground, first, second and third floors respectively. The Appellant also submitted that in the month of September, 2017, Discom removed the electricity connection already installed at the property/premises due to the construction works being carried out over there but subsequently on 20.09.2017 one temporary electricity connection was installed by them with a sanctioned load of 2 KW. The Appellant further stated that after completion of construction work, she applied for new electricity connections floor-wise on 28.05.2018 at the subject cited premises but on 29.05.2018, the said applications for the new connections were rejected by Discom on account of the reasons viz, building booked by MCD, MRO permission required for the temporary meter and O&M permission required. She also stated that the above said property was regularized and the sanctioned plan and regularization letter was also submitted to Discom for releasing the new electricity connections. She also approached the officials and officers of the Discom several times but as the electricity connections were not released by them, she filed a complaint with the Forum for redressal of her grievances.

The Appellant further submitted that after hearing the argument, the Forum dismissed her complaint vide impugned order dated 28.10.2019 on the pretext that she is unable to fulfill the conditions as prescribed under the law and in the absence of fire clearance certificate, the new electricity connections cannot be released. The Forum also ignored the letter issued by South Delhi Municipal Corporation (SDMC) Central Zone to the Discom for restoration of electricity connection on the said premises. Being aggrieved by the rejection of her complaint by the Forum, the Appellant has preferred the present appeal on the grounds that the Forum has failed to consider that the said building is constructed with stilt parking according to the building sanctioned plan and in view of the letter issued by SDMC for restoration of electricity supply, the Discom in any case cannot deny her the new electricity connections. Further, the Forum has also failed to consider the fact that the said building is constructed with basement, stilt parking, ground, first, second and third floor only instead of five floors as mentioned wrongly by the forum and secondly that Discom is not authorized to measure the height of the building. The Forum has also not considered the notification dated 31.05.2019 issued by DERC which clearly mentioned that maximum height of the building shall be 15 meters in plot without stilt parking and 17.5 meters in plot with stilt parking and such residential buildings shall not be considered high rise buildings.

In the background of the above, the Appellant finally prayed that since the height of her building in question is less than 17.5 meters and is covered under the category of buildings with stilt parking as per the direction/notification dated 31.05.2019 of Delhi Electricity Regulatory Commission, as such the impugned order dated 28.10.2019 of the Forum be set-aside and direction be imparted to Discom to release the new electricity connections on the said premises at the earliest.

3. The Discom in its reply submitted that on receiving the requests for new connections, the site was visited by them and it was found that the height of the building is more than 15 meters and accordingly the applications for new electricity connections were rejected due to MCD Booked Building, O & M permission required, meter removal required of existing temporary meter and building height more than 15 meters. As per Discom, the height of the building was initially measured in November, 2018 and found to be more than 15 meters and later on as per the directions of the Forum the height was measured again on 19.02.2019, in the presence of authorized representative of the Appellant. The building height as measured from the highest point of surrounding ground level was found to be 16.38 meters and more over no stilt parking was found to be existing in the building. The basement of the building was also found to be slightly raised from the ground level by a height of 0.79 meter and the height of ground floor as measured from basement was 3.20 meters. In view of the same, the Appellant conceded that the height of the building is more than 15 meters and therefore he requested the Forum to allow him to withdraw the complaint but later on he again requested the Forum to take up her complaint regarding non-release of new electricity connections in the backdrop of the DERC's notification dated 31.05.2019 issued in the light of the provision of unified building bye-laws to relax the condition of the 15 meters criterion.

Discom further stated that as per the present status, the electricity connections cannot be released since the building in question is more than 15 meters in height which required 'Fire Clearance Certificate' from the Fire Department as mandated under the law for the buildings having height more than 15 meters. Discom also submitted that the Appellant has shown the ground floor as a stilt parking by demolishing the wall, but the height of the said floor upto lower lantern level is 3.68 meters including 0.68 meter ramp height, as measured from the road level. Discom further clarified that as per the Clause 7.15.1 of the unified building bye-laws for Delhi 2016, the height should be maximum 2.4 meter at soffit level of beam and 2.7 meter at soffit level of slab for providing stilt parking space.

*Signature*

Whereas, in the instant case the ramp of 0.68 meter height having a width of 1.30 meter and a length of 1.50 meter has been constructed only as a temporary arrangement to get the electricity connections. Hence, the floor cannot be treated as a stilt parking and since the total building height is more than 16 meters, the connections cannot be released in terms of the direction issued by Delhi Electricity Regulatory Commission vide letter dated 31.05.2019.

Discom further stated that there will be serious safety implications in granting the electricity connections in the building, having height of more than 15 meters, without the required 'Fire Clearance Certificate' from the Fire Department. Discom also reiterated that the Appellant has not made any efforts and taken pains to obtain the 'Fire Clearance Certificate' which would have entitled her to the electricity connections conveniently and as such it is apparent that the property is situated at such a place where the 'Fire Clearance Certificate' would not be granted because of the access or safety reasons. Therefore, it becomes more important to examine the matter before release of electricity connections, keeping in view of the safety considerations which involve serious repercussions to the life and property of the public at large.

Discom also submitted that the issue of height is very important and critical in view of the safety of life and property of the public at large as any overlooking/relaxation of the same would lead to catastrophe as happened in some of the recent cases in Delhi. The measurement of the height of the building, therefore, is a serious issue which has to be strictly adhered to in consonance with the provisions of the building bye-laws as applicable. The Appellant must act fairly as the lives of the occupants and public at large cannot be compromised for the sake of electricity connections in a building. As such the proper remedy should be, that the Appellant must obtain 'Fire Clearance Certificate' so as to avoid any ambiguity on the serious issue of threat to life and property because of installation of the connections at a building which does not meet the requirement of height as per law.

In view of the above, Discom finally submitted that there are no legal and factual infirmities in the order of the Forum and the present appeal of the Appellant is liable to be dismissed as there is no merit in the case.

4. After going through the material on record and hearing the arguments of both the parties at length, the basic issue which emerges is that Discom refused to

release the new electricity connections to the appellant basically on the ground that the height of the building is more than 15 meters and the Appellant has failed to produce the required 'Fire Clearance Certificate' from the Fire Department as per the extant regulations.

Given the above exposition and taking all the factors into account, it is worthwhile to mention here that for the purpose of seeking new electricity connections in high rise buildings, the Appellant has to complete all formalities and will have to abide by all the regulations required under the law keeping in view the safety requirements involving serious repercussion to the life and property of the public at large. However, the basic issue which needs to be decided in the case is whether the height of the said building and that of the ground floor conforms to the building bye-laws and other regulations for release of the electricity connections or not. In this context, the main argument of the Appellant that the Discom is not authorized to measure the height of the building is not found to be tenable, in view of the clarification dated 31.05.2019 issued by DERC wherein it has been clarified that the measurement of the height of the building shall be made in accordance with Clause 1.4.16 and 7.19 of the Unified Building Bye-Laws of Delhi, 2016. The operative part of the direction/clarification issued as per the DERC letter No. F.17(85)/Engg./DERC 2016-17/5403 dated 31.05.2019 is quoted as under:

*"Based on the above, it is clarified that the distribution licensee for release of electricity connection shall not insist for fire clearance certificate for the residential buildings having height upto 15 meters without stilt parking and 17.5 meters with stilt parking. The measurement of the height of the building shall be made in accordance with clause 1.4.16 and 7.19 of Unified Building Bye-Laws for Delhi 2016."*

In view of above, it is held that Discom is competent to measure the height of the building.

It is pertinent to mention here that in the first instance itself during the hearing in the Forum the Appellant conceded that the height of the building is more than 15 meters and therefore he sought liberty to withdraw the complaint to get the requisite fire clearance certificate from the Fire Department, but later on he again requested for taking up the complaint regarding non release of the connections in the backdrop of the DERC's notification dated 31.05.2019.



It is further observed that the height of building was initially measured in November, 2018 and later on in February, 2019 the height was measured again, as per the directions of the Forum, in the presence of the authorized representative of the Appellant. On perusal of the Joint Inspection Report, the height of the building was found to be 16.38 meters and that of ground floor to be 3.20 meters as measured from the top of the basement, which in itself is 0.79 meter above the road level. During the hearing, the Appellant argued that the road in front of building has been reconstructed and re-carpeted due to which the level of the road has risen quite a lot and the various heights might have come within the permissible limits and in view of the same another joint inspection is necessitated for measuring the various heights again. Keeping in view the request of the Appellant and in the interest of justice the Discom was asked to carry out the joint inspection of the building again. The joint inspection of the site for measuring the various heights of building was carried out on 26.02.2020 in the presence of both, the Discom and the authorized representative of the Appellant. On perusal of the joint inspection report which was duly signed by both the parties, it is observed that the height of the building as measured from the highest road level of the main lane has been mentioned as 16.38 meters and the height of the ground floor from road level is 3.72 meter whereas the height as measured from top of the basement is mentioned as 3.0 meter. Further, the top of the basement is raised by 0.72 meter above the road level.

In the context, in order to decide the issue of the ground floor being stilt parking or not, it is important to peruse the clause 7.15.1 of the Unified Building Bye-Laws of Delhi, 2016 in the first instance, which pertains to the Provision of Parking in stilt, Podium and Landscaping. The operative relevant part of the clause is quoted as under:

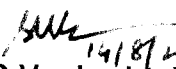
*"In case a building is to be constructed on individual plot with stilt floor, a maximum 2.4m height at soffit level of beam and 2.7m height at soffit level of slab for providing parking space is permitted. In podium(s), maximum 2.4m height at soffit level of beam and 2.7m height at soffit level of slab for providing parking space can be constructed in continuation of the stilt floor having access for the parking without conflicting with the access requirement as per clause 3.7 and 8.2 from the plot line. The terrace of podium may be used for plantation, swimming pool, landscaping, other related structures and parking/entrance and exits as required."*



In view of the measurement of the height of the building and the ground floor carried out in the presence of the authorized representative of the Appellant twice, in February, 2019 and again in February, 2020 and further the perusal of the clauses of Unified Building Bye-Laws for Delhi, 2016, it is held that ground floor cannot be treated as stilt parking. Secondly, since the height of the building is more than 15 meters and as the building also does not fulfill the criterion of stilt parking, therefore, the said building falls under the category of residential buildings having height more than 15 meters without stilt parking as per the DERC's notification dated 31.05.2019. Hence, the electricity connection to the building can only be released after the production of requisite 'Fire Clearance Certificate' from the Fire Department. The argument of the Appellant, that the Forum has not taken into consideration of the letter issued by SDMC for release of electricity connections, has no basis and is misconceived, since the issue of release of electricity connections cannot be decided on any other basis other than the DERC regulations taken along with the existing building bye-laws of Delhi.

Against the above background, in order to get the new electricity connections released, the Appellant must complete all commercial and other formalities including obtaining of the necessary 'Fire Clearance Certificate' from the Fire Department as required under the regulations, which is mandatory for release of the connections as the height of the building is more than 15 meters without stilt parking.

Hence, no substantive case is made out for any interference with the verdict of the Forum and the appeal is disposed of accordingly.

  
(S.C.Vasherhta)  
Electricity Ombudsman  
14.08.2020