

**OFFICE OF 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**

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**Appeal No. 03/2025**

(Against the CGRF-BYPL's order dated 19.12.2024 in Complaint No. 363/2024)

**IN THE MATTER OF**

**Smt. Maya Niranjana Gada**

**Vs.**

**BSES Yamuna Power Limited**

**Present:**

**Appellant:** Shri Jinesh Gada, Authorized Representative and  
Shri Neeraj Kumar, Advocate on behalf of the  
Appellant.

**Respondent:** Shri R.K. Tiwari, Manager, Shri Akshat Aggarwal, Legal  
Retainer and Shri Akash Swami, Advocate, on behalf of  
BYPL

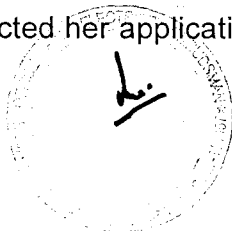
**Date of Hearing:** 07.05.2025

**Date of Order:** 08.05.2025

**ORDER**

1. Appeal No. 03/2025 dated 01.01.2025 has been filed by Smt. Maya Niranjana Gada, R/o 11385/14-A-96, Second Floor, West Extension Area (WEA), Karol Bagh, Delhi - 110005, through advocate Shri Neeraj Kumar, against the Consumer Grievance Redressal Forum – Yamuna Power Limited (CGRF-BYPL)'s order dated 19.12.2024 in Complaint No. 363/2024.

2. The background of the case is that the Appellant had applied for a change of category of her connection bearing CA No. 100516184, which was energized on 19.09.2003, with a sanctioned load of 6KW from domestic to non-domestic vide Request No. 8006922649. The Discom rejected her application on the grounds that a site visit could

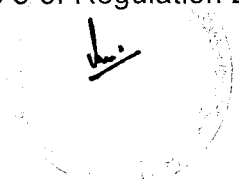


not be completed because the third floor owner did not allow access to the roof. Against this, the Appellant filed a complaint before the Forum, asserting that the Discom had rejected her application without rhyme and reason and only for extorting money. She is the lawful owner of the premises, in question, and has resided there since 2003, and requested the Forum to allow her for change of category from domestic to non-domestic applied for, in the interest of justice. To support her claim, the Appellant referred to a case decided by the CGRF in CG No. 240/2023 titled - Guru Charan Singh on 01.09.2023, and submitted a copy of the order for consideration and record. Regarding height of the building, the Appellant provided an Architect's certificate dated 07.10.2024 to the Forum. (Page 17 of CGRF's file) Furthermore, she filed a rejoinder on 11.11.2024, submitting that earlier the premises was rented out in March 2020, and the subject connection (CA No. 100516184) was booked under 'unauthorized use of energy (UUE) on 06.03.2020 due to non-domestic activity/use. An enforcement bill was subsequently raised and settled before the Special Lok Adalat on 14.02.2021, after which she obtained a 'NOC' from the Discom on 12.03.2021. The Appellant now intends to let out the premises on rent, and has provided all the relevant documents to the Forum for the purpose of change of category.

3. The Discom asserted that the Appellant applied for a change of category from domestic to non-domestic. As per the regulations for non-domestic connection, the height of the building is required. Therefore, it is necessary to inspect the roof to find out the current position and whether there is any construction on the third floor. This fact requires to be considered before acceding to the request. From the outside, the building structure appears to be ground plus three floors. As such, it is necessary to inspect the roof, to ascertain the actual building structure and whether any further construction has been carried out or not on the roof of the third floor. Only thereafter, the Discom will be in a position to complete/finalize the technical feasibility and find out whether before change of category, architect certificate or fire clearance is required or not, in accordance with Rule 27 of the Delhi Fire Services.

The Discom relied upon Regulation 27 of Delhi Fire Service Rules, 2010 and Regulation 17(5) of DERC's Supply Code, 2017. A Site Inspection Report dated 30.05.2024 was placed before the Forum, and taken on record. Furthermore, in compliance with the CGRF's order, the Discom carried out another joint site visit on 18.09.2024 and submitted that (a) a category change was applied for running a PG (paying guest) on the second floor, and (ii) the owner of the third floor did not allow officials of Discom for a roof inspection. The Discom also submitted the relevant documents and photographs before the Forum for consideration and record purposes.

4. The CGRF-BYPL, in its order dated 19.12.2024, observed that the Appellant had applied for a change of category of the subject connection to avoid further misuse bookings by Discom. In its order, the Forum detailed Regulation 27 of the Delhi Fire Service Rules, 2010, under the Delhi Fire Service Act, 2007 (Delhi Act 2 of 2009) and found that the present matter falls under Clause 3 of Regulation 27 – which states hotels and guest house

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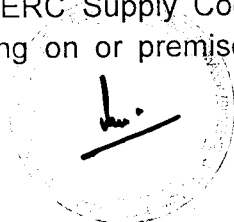
having height more than 12 meters with ground plus three upper stories including mezzanine floor. As a result, the Forum dismissed the complaint and ordered that the change of category cannot be granted until the complainant provide Fire Clearance Safety Certificate/BCC to the Discom.

5. The Appellant, aggrieved by the order dated 19.12.2024, passed by CGRF-BYPL, has filed this appeal stating that the premises in question was booked for unauthorized use of electricity (UUE) in March, 2020, and presently, the second floor is leased. Further, the Discom has violated Regulation 55(7) of the DERC's Supply Code, 2017 – which stipulates that the licensee shall change the category of supply from the date of inspection, in case UUE is established. However, the Discom had neither changed the tariff category nor raised the bill, despite booking under UUE. On the other hand Discom has raised bills for misuse, in March, 2020. The Appellant also invoked Article 14 – Equality before the law and requested (a) to set aside the CGRF'BYPL's above-mentioned order, (b) to pass an order to change the applied category.

6. The Discom, in its response to the appeal vide letter dated 28.01.2025, reiterated the facts placed before the CGRF-BYPL. In addition, the Discom submitted that as the change of category is required to run a PG (paying guest) on the second and third floor of the building, it was mandatory to ascertain the exact height of the building, which was not allowed by the owner of the third floor, presumably in collusion with the owner of second floor. The Discom further contended that Rule 55(7) of DERC's Supply Code, 2017 was not applicable in this matter, as the Appellant was attempting to get the category changed by using the negative provision of law, which is barred by law under the principle of colourable legislation. It is mandatory for the Appellant to submit a 'NOC' from the Fire Department to get the category change. The architect certificate stating that the height of the applied premises is less than 15 meters was of no avail.

7. The appeal was admitted and fixed for hearing on 07.05.2025. During the hearing, both the parties were present along with their representatives/advocates. An opportunity was given to both the parties to plead their respective cases at length and relevant questions were asked by the Ombudsman and Advisors, to elicit more information on the issue.

8. During the hearing, the Appellant reiterated the submissions filed in his appeal. In response to a query by the Ombudsman on the reasons for conversion of category requested, the Appellant submitted he had made a request for conversion of category on the second Floor from domestic (DX) to non-domestic (NX), due to an earlier enforcement action taken by the Enforcement Cell of Respondent in 2020. This action forced her to apply for conversion of category. However, a suo moto conversion was required under the Regulation 55 (7) of DERC Supply Code, 2017. When asked whether there was any commercial activity going on or premises used exclusively for residential purposes, the



appellant stated that the Second Floor of the premises had been let out/rented out for residential use to a tenant (in a single name) under a rent agreement, who had a family of 6-7 members. There was no commercial activity, such as Paying Guest (PG) accommodation, even during 2020 when a misuse case was booked by the Enforcement Cell. The rent agreement executed in 2024 had expired and renewed with a new tenant for residential purposes. He also mentioned that a 'No Objection Certificate' was obtained from the Enforcement Cell. Thereafter, the premise has not been used for any commercial activity. On the other hand, commercial activity in the form of PG accommodation was going on the third floor, and there was also construction on the fourth floor. Moreover, such commercial activity in the form of PG accommodation was rampant in the area. In response to a query by the Ombudsman, the Appellant indicated his willingness to withdraw his complaint since no commercial activity has taken place and the rented premises was intended only for residential purposes. This did not necessitate any change in the category.

9. In rebuttal, the Respondent asserted that an application for conversion of category was received from the Appellant, which was processed. The issue, for consideration was whether there was any commercial activity going on or premises used exclusively for residential purposes. To establish this fact the officials of Respondent were not allowed proper inspection of the building, since no entry was allowed on the third floor by the resident despite repeated visits. Perusal of rent agreement also did not disclose the purpose. However, as regards proper inspection, there was no plausible explanation submitted by the Respondent for non issue of a notice under section 163 of the Electricity Act, 2003 to the occupant/owner at third floor for further action. The Advocate further asserted that admittedly the misuse case was booked and NOC was obtained after payment.

10. Having taken all factors, written submissions and arguments into consideration, the following aspects emerge:

- (i) The Appellant submitted applications more than once for change of category from Domestic to Non-domestic in respect of connection CA No. 100516184 installed at second floor of premises No. 11385/14-A-96, WEA, Karol Bagh, Delhi -110005. The premises has been let out. The last Lease (Rent) Agreement was made on 03.01.2024 for eleven months from 01.02.2024 to 31.12.2024. A fresh agreement had been executed during 2025, with a new tenant.
- (ii) The Discom was not allowed access to the third floor by the occupant for ascertaining building height and also to find out, if there is any construction over the third floor. Appellant has produced an Architect' certificate stating height at 15M (approx.) from ground to third floor.




- (iii) The Appellant was willing to withdraw the application for change of category as no commercial activity is undertaken by him on the second floor.
- (iv) Discom may take recourse to section 163 of Electricity Act, for inspection of the third floor of the building to ascertain whether any construction has been done on the third floor.

11. In the light of the above, the appeal is dismissed as withdrawn. Appellant has already given a letter in this regard.

12. This order of settlement of grievance in the appeal shall be complied within 15 days of the receipt of the certified copy or from the date it is uploaded on the website of this Court, whichever is earlier. The parties are informed that this order is final and binding, as per Regulation 65 of DERC's Notification dated 24.06.2024.

The case is disposed off accordingly.

  
(P.K. Bhardwaj)  
Electricity Ombudsman  
08.05.2025