

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

(Phone-cum-Fax No.: 011-41009285)

Appeal No. 05/2023

(Against the CGRF-BYPL's order dated 05.01.2023 in C.G Nos. 220/2022 and
Order dated 06.02.2023 in RA No. 2/2023 in CG No. 220/2022)

IN THE MATTER OF

Ms. Lalita

Vs.

BSES Yamuna Power Limited

Present:

Appellant: Shri Shanky R. S. Gupta, Advocate and Authorized
Representative of the Appellant along with Shri Ankit Gupta,
Advocate

Respondent: Shri K. Jagatheesh, DGM, Ms. Anita Sharma, AMPS,
Ms. Shweta Chaudhary, Legal Retainer and Ms. Ritu Gupta,
Advocate, on behalf of BYPL

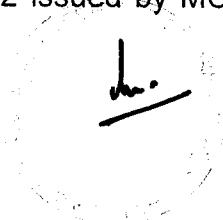
Date of Hearing: 05.04.2023

Date of Order: 13.04.2023

ORDER

1. Appeal No. 5/2023 has been filed by Ms. Lalita through Shri Shanky R S Gupta, Authorized Representative (AR), C/o VNI Legal Research & Artificial Intelligence PL., against the order passed by the CGRF-BYPL dated 05.01.2023 in C.G Nos. 220/2023 and, subsequently, another order passed on 06.02.2023 in Review Application (RA) No. 2/2023.

2. The background of the case is that the Appellant purchased a plot measuring 60 sq. yards at Village Sikdarpur, East Rohtash Nagar, Shahdara from Smt. Jyoti Khaneja through a registered sale-deed executed on 16.11.2017. She applied for new electricity connections (3 domestic and 1 non-domestic) at premises No. 1/6885, (Old No. 1260-A/37-A, Khasra No. 1397/330) Gali No. 5, Rohtash Nagar, Shahdara, Delhi - 110032, on the strength of Building Completion-cum-Occupancy Certificate dated 20.01.2022 issued by MCD (erstwhile EDMC) but the Respondent



rejected her applications for new connections on the basis of Deputy Commissioner/Executive Engineer, MCD's objection letter, seeking valid 'NOC' from the Municipal Corporation of Delhi or Completion-cum-Occupancy Certificate. Then, the Appellant approached the CGRF-BYPL with a request to direct the Respondent to release the new connections. The Appellant stated before the Forum that she had already submitted a 'Building Completion Certificate' from the certified Architect on 20.01.2022 and the status of the certificate is also reflected on MCD's Website as "completion certificate issued" against the property as mentioned above.

3. On the other hand, the Respondent stated that the Appellant applied for electricity connection vide Request No. 8005926749 for Ground Floor, Shop No. 2 at the premises, in question. The site was visited and found that building is having ground plus four floors and no meter existed on the site. The applied address is in MCD's objection list, as per their letter No. EE(B)-II/SH-N/2019/D/722 dated 24.09.2019 (Sl. No. 34). Also, building completion certificate issued by Architect Nishant Singh, is invalid in view of the fact that he has been debarred by the MCD owing to certain irregularities committed by him. In this regard, an e-mail dated 25.01.2022 from the Executive Engineer (Building), MCD and an order dated 31.03.2022 passed by Deputy Commissioner, EDMC, Delhi, mentioned *therein* "xxxx taking into consideration of all facts and circumstances of the case in consonance with the relevant provisions of Unified Building Bye-Laws - 2016, debar Shri Nishant Singh, Engineer, E-00631) from signing/submission of any application for consideration/approval of Layout Plan/Site, Plan/Building, Plan/Completion, Plan/C-1, Forms/Structural Drawings/Regulations of Unauthorised Construction & other activities related to Buildings under provisions of UBBL-2016, as an Architect in respect of the properties under the jurisdiction of the three Municipal Corporations, i.e. South DMC, North DMC & East DMC, for a period of three years from the date of issuance of this order", in response to their query dated 24.01.2022.

4. The CGRF in its order, considered the Regulation 11 (2) of the DERC's Supply Code, 2017. The Forum also referred to the *High Court of Delhi's order in WP(C) No. 11236/2017 in the case of M/s Parivartan Foundation Vs. South Delhi Municipal Corporation & Other* which States that - "BSES-BRPL and Delhi Jal Board shall ensure that no water and electricity is supplied to the buildings constructed in violation of law". Furthermore, the Forum also stated that though the reply received from Executive Engineer, EDMC, in reply to the Respondent's query dated 24.01.2022 related to some other property, but it is clarified that all completion certificates issued by Shri Nishant Singh, Architect, should not be considered valid for releasing new connection.



5. Finally, the Forum ordered that rejection of the Appellant's application for new electricity connection at Ground Floor, Shop No. 2, at property No. 1/6885, Street No. 5, East Rohtash Nagar, Shahdara, Delhi, by the Respondent was justified and based on safety and security.

6. Again, the Appellant filed a review petition before the Forum on following points:

- As per letter No.EE(B)-II/SH-N/2019/D-722 dated 24.09.2019 from Executive Engineer, EDMC, Shahdara, directed the Respondent to disconnect all the supply connections, but no connection has been disconnected yet. Hence, all the 39 units must be disconnected immediately.
- MCD, Executive Engineer, Shahdara South Zone cannot interfere in the Shahdara North Zone matter.
- The Respondent mislead the Forum that completion-cum-occupancy certificate was issued by debarred architect. Whereas, at the time of filing document on 20.01.2022 on MCD's website, the architect was not debarred, even the registration of the architect was not cancelled.
- EDMC/MCD issued trade license for the same property.

7. The CGRF-BYPL in its order dated 06.02.2023 in Review Application No. 2/2023 stated that (a) the complainant has not produced any new fact or evidence as required nor any mistake or error is apparent on the face of record. Therefore, the Review Petition does not satisfy the procedural requirement justifying its admission for consideration, hence, rejected, (b) the Forum directed the concerned officials to place this order before CEO (BYPL), who will order a vigilance enquiry to fix the responsibility of the officials for taking discriminatory action in denying electricity connection to the complainant while not disconnecting connections to similar 39 units as alleged by the complainant.

8. Aggrieved from the order of the CGRF-BYPL, the Appellant preferred this appeal on the following grounds and requested to intervene in the matter and do the needful on merits.

- EDMC/MCD had already issued completion-cum-occupancy certificate as well as trade license for the premises, in question, which are verified and authenticated on MCD's official portal and by QR Code. These certificates are not revoked/cancelled/nullified even now.



- That the Respondent did not disconnect the supply to other 39 units, as per MCD's objection list in which one of the unit belongs to her.
- A prayer has been made for protection against discrimination and release of connection.

9. The appeal was admitted and taken up for the hearing on 05.04.2023. During the hearing, both the parties were present along with their Counsel/Authorized Representative. An opportunity was given to both to plead their case at length.

10. During the hearing, the Appellant reiterated his grievance as before the CGRF and contended that no action had been taken by the Respondent for disconnection of electricity connection of forty (40) premises in the objection list issued by the MCD in the year 2019. In his case, the 'completion-cum-occupancy' certificate has neither been revoked/cancelled/nullified in any of the communications by the MCD. The certificate still exists on the MCD's Portal. The Respondent was guilty of non-compliance with the order of the High Court in the case of *Parivartan vs SDMC* for disconnection of supply. Further, since the applied premises falls in Shahdara, North Zone, the official of Shahdara, South Zone can not interfere in the matter pertaining to North Zone. Accordingly, on the basis of BCC issued by MCD, the new connection applied ought to have been released.

11. In rebuttal, the Advocate of the Respondent submitted that in the light of communication received through e-mail dated 24.01.2022 and an order dated 31.03.2022 issued by the Deputy Commissioner, Shahdara, South Zone, debarring Shri Nishant Singh, Architect, in respect of properties under the jurisdiction of MCD (the then three municipal corporations), the applied connection could not be released since the premises was in the objection list of the MCD and validity of the BCC issued by Ar. Nishant Singh was not to be considered. During the course of hearing, it was also clarified that the Respondent had been informed by the MCD that any online certificate appearing as issued by the Central Zone should be treated as non-existent since there was no Central Zone in existence.

12. Attention was also invited by the Respondent to the communication dated 09.10.2019 addressed to Executive Engineer, EDMC, referring to an order dated 24.04.2018 by the Supreme Court of India in WP(C) 4677/1985, whereby a task force was to be constituted to ensure implementation of the orders of the Court, applicable bye-laws and to ensure removal of unauthorized constructions. Accordingly, a Special Task Force was constituted by Delhi Development Authority vide OM dated 25.04.2018 and 23.05.2018, in respect of action plan for monitoring all construction



activities in Delhi and steps for removal of ongoing and already made unauthorized constructions.

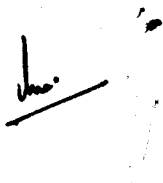
13. The law is already settled by Delhi High Court in Parivartan case WP(C) 11236/2017 dated 20.12.2017 to the effect that no connection can be released in unauthorized construction and for those already released, appropriate action be taken. Delhi High Court in the matter M S Azra vs State of NCT of Delhi WP(C) 2453/2019 dated 06.02.2020, has also observed that "merely because some occupants of a building have been wrongly given electricity connection, court cannot compound the wrong act and direct for granting of new connections.

14. During the hearing on 05.04.2023, the Respondent was directed to file an affidavit in respect of the status of 40 connections as mentioned in MCD's objection list of unauthorized constructions during 2019. The Affidavit should clearly mention (i) the number of connections installed on the basis of BCC before 2019, during the year 2019 and after 2019, (ii) number of connections installed on the basis of directives given by CGRF or any Courts, (iii) details of connections released on the basis of BCC issued by debarred architect, Shri Nishant Singh or otherwise.

15. An affidavit dated 11.04.2023 filed by Ms. Amita Sharma, AM, CMG, BSES-YPL, has provided status of the forty (40) premises in the MCD's objection list. It has been informed that despite a letter dated 09.10.2019 sent to MCD and a reminder dated 24.02.2023, joint operation plan could not be finalized in respect of these premises. In fifteen (15) premises, out of forty (40), electric supply was already in existence on the date of issue of letter dated 09.10.2019 to MCD. In twelve (12) cases, electricity was supplied on the basis of BCC issued by MCD. In four (4) premises, part of electricity existed prior to booking and part of premises, electric supply was released on the basis of BCC, after the booking. Four (4) premises could not be identified due to improper address and in four cases including the Appellant electricity connection has not been provided as they failed to submit BCC or NOC from MCD. In one (1) case consumer took connection by manipulating documents for which action against the said connection has been initiated.

16. The matter has been carefully considered in the light of the material on record and also the rules and settled laws. In the light of the declaration of the Architect's Certificate as invalid, and the premises being in the objection list of the MCD along with others, no relief for release of connection can be provided to the Appellant. The Ombudsman upholds the CGRF-BYPL's order and further directs as under:-

- (i) The 40 premises were included in the objection list by the MCD during the year 2019. No concrete steps have been taken by the Respondent and




MCD for review of the list of 40 premises, during the last three years in the light of the BCC/NOC issued by the MCD. Nor there is any action for demolition of the unauthorized construction and disconnection of electricity.

(ii) Mechanism be evolved for regular monitoring of such cases on a quarterly basis by the Nodal Officer of the Respondent (DISCOM), in consultation with the DDA & MCD.

(iii) Steps may be taken for strict implementation of the law laid down by Delhi High Court in Parivartan case as well as the orders passed by the Supreme Court, as mentioned above. The spirit of the decision of the High Court in Parivartan case is to discourage unauthorised constructions by not providing connections to the buildings constructed in violation of law and disconnecting where the connection has already been provided. But the procedure adopted by the Discoms in writing letters to MCD seems to be an eye-wash as no concrete action has been taken by the civic agencies/Discoms and the city is fast turning into a slum of unauthorised constructions. The CEO of the Discom should take up matter with MCD to evolve an effective system to ensure the compliance of Delhi High Court's order as delivered in the Parivartan Case.

(iv) Outcome of vigilance enquiry ordered in this matter by CGRF be also shared with this office by the CEO by June, 30, 2023.

The appeal is disposed off accordingly.


(P.K. Bhardwaj)
Electricity Ombudsman
13.04.2023