

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 No: 011- 26144979)

Appeal No. 06/2020

(Against the CGRF-BRPL's order dated 12.12.2019 in CG No. 95/2019)

IN THE MATTER OF

SHRI SURENDER KUMAR

Vs.

BSES RAJDHANI POWER LTD.

Present:

Appellant : Shri D.K. Sharma, Advocate along with Shri Sumit Seharawat

Respondent: Smt. Anchan Arora, DGM, Shri Sudarshan Bhattacharjee, Senior Manager, Shri Amresh Kumar, Manager and Shri Deepak Pathak, Advocate, on behalf of BRPL

Date of Hearing: 16.03.2020

Date of Order: 18.03.2020

ORDER

1. The appeal No. 6/2020 has been filed by Shri Surender Kumar through his advocate Shri D.K. Sharma & Associates against the order of the Forum (CGRF-BRPL) dated 12.12.2019 passed in CG No. 95/2019. The issue concerned in the Appellant's grievance is regarding non-release of new electricity connections by the Discom (Respondent) in respect of his property bearing House No. 127, Gali No. 14, Amritpuri, Garhi, New Delhi-110065 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 his property bearing House No. 127, Gali No. 14, Amritpuri, Garhi, New Delhi-110065 measuring 46 sq. yards is a very old construction consisting of basement, ground, first, second, third and fourth floors. The building is already having seven electricity connections installed therein by the Discom. Further, on 04.05.2015 and 16.09.2019, two electricity connections bearing CA No. 151420035 and CA No. 101853606, with sanctioned load of 2 KW and 3 KW respectively were installed by the Discom on various floors as per their requirement. The Appellant further submitted that he applied for two new electricity connections on 12.10.2019 at the subject cited premises but on 17.10.2019, the said applications for new connections were rejected by the Discom on account of three reasons viz; ELCB required to be installed, energy dues pending on CA No. 101853606 and building height is more than 15 meters. The Appellant approached the officials and officers of the Discom several times but since the electricity connections were not released by them, he filed a complaint with the CGRF for redressal of his grievance.

The Appellant further submitted that after hearing the arguments, the Forum dismissed his complaint vide impugned order dated 12.12.2019 on the pretext that he is unable to fulfill the conditions as prescribed under the law and in the absence of the fire clearance certificate, the new electricity connections cannot be released. The Forum ignored the letter facts that already number of connections are installed in the building upto forth floor and only recently one more meter was installed on 16.09.2019 by Discom in the said building. Being aggrieved by the rejection of his complaint by the Forum, the Appellant preferred the present appeal on the grounds that the Forum has failed to consider that the building is an old construction and already built up to fourth floor and also having seven electricity connections installed therein. Further, recently one more connection was released by Discom around one month back in the same building at the first floor without 'Fire clearance certificate'. The Appellant also raised the objection that the Discom had not submitted the actual height of the building during the hearing in the Forum on the basis of which the new electricity connections have been denied and secondly the Discom also is not authorized by DERC to measure the height of the building. In support of his argument for release of new electricity connections, the Appellant has also referred to the order of the Govt. of NCT of Delhi dated 22.11.2016 vide which Discoms have been asked to provide the connections on demand to the consumers irrespective of the fact that the colonies being authorized or not. Further, the Appellant has also cited the order of Hon'ble High Court of Delhi, wherein it was observed that the electricity is an essential requirement of the life, without which any person in occupation cannot enjoy the property.

In the background of the above, the Appellant has finally prayed that the impugned order dated 12.12.2019 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 has submitted that on receiving the requests for new connections on the building, the site was visited on 16.10.2019 and it was found that the height of the building is more than 15 meters and accordingly the Appellant was informed through a deficiency letter that new electricity connections cannot be released on account of pending dues on CA No. 101853606, non installation of ELCB as per the guidelines of DERC and the building height being more than 15 meters. The Discom, however, admitted in their written submission that the dues pending against the said connection, had now been paid on 29.11.2019. Discom further stated that as per the present status, the electricity connection 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. Secondly, the grant of electricity connections in the building, having height of more than 15 meters, in the absence of NOC/Fire Clearance Certificate from the Fire Department, there will be serious safety implications. The Discom further reiterated that the Appellant has not made any efforts and taken pain to obtain the 'Fire Clearance Certificate' which would have entitled him the electricity connections conveniently and as such it is apparent that the property is situated at such a place where 'Fire Clearance Certificate' would not be granted because of the access or safety reasons and 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.

The Discom further submitted that it is pertinent to mention here that the electricity connections have not been rejected but have been mandated as per law to produce 'Fire Clearance Certificate' from the Fire Department and as such the contention of the Appellant is highly misconceived regarding rejection of electricity connections. On the issue raised by the Appellant citing the order of the Hon'ble High Court of Delhi dated 04.09.2015 that electricity is an essential amenity and nobody can be deprived of the same, the Discom countered the same citing another order of Hon'ble High Court of Delhi dated 25.01.2016 vide which it has been held that no electricity connection can be granted without due compliance as required under the law and since DERC has mandated a condition in the regulations that in the buildings

having height more than 15 meters without stilt parking and 17.5 meters with stilt parking, the electricity connections cannot be granted without production of 'Fire Clearance Certificate'. In view of the same, the Discom submitted that without fulfillment and compliance of the required conditions, they cannot release the electricity connections and has to follow the law and regulations in true spirit. Discom further argued that reliance placed by the Appellant on the judgement of Hon'ble High Court of Delhi dated 04.09.2015, is highly misconceived and is not applicable as the electricity connections, unlike this case was rejected in that case because of dispute between the owner and the tenant and there was no issue of height of the building therein.

On the issue raised by the Appellant regarding one electricity connection granted in the same building on 16.09.2019, Discom submitted that the contention of the Appellant is highly misconceived as the said connection was already existing in the said building and only the reconnection was done thereof which had since been disconnected on some other grounds and it is again reiterated firmly that no fresh electricity connection has been granted after coming into operation of the new Supply Code which mandated the insistence of 'Fire Clearance Certificate' in a building having height of more than 15 meters. The said electricity connection is not a fresh connection like the present case and it already existed and the law of Supply Code cannot be made applicable retrospectively. Regarding another observation of the Appellant citing the order of Govt. of NCT Delhi, vide which it was mandated to release the electricity connections, supra, the Discom submitted that they are bound under the law to observe strict compliance of DERC Supply Code and other regulations framed from time to time and the reliance on the circular of GNCT of Delhi is highly misconceived which nowhere provides that the electricity connections be granted in violation of the law and disregard the safety compliances as prescribed under the law.

Discom further 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 a catastrophe as happened in some of the recent cases in Delhi. The measurement of the height of the building, therefore, is a serious issue and the Appellant must act fairly as the lives of the occupants and public at large cannot be compromised for the sake of electricity connection 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 the 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 the 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. In the instant case it is observed that this is an old building and number of electricity connections are already installed and working since long, well before the date of the latest clarification dated 31.05.2019 issued by DERC. 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, states as under:

"Based on the above, it is clarified that the distribution licensee for release of electricity connection shall not insist for the clearance certificate for the residential buildings having height up to 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."


Given the above exposition and taking all the factors into account, it is held that for the purpose of seeking new electricity connections in high rise building, the Appellant has to complete all the commercial 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. The argument of the Appellant that the Discom is not authorized to measure the height of the building is not in order, 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 Unified Building Bye-Laws of Delhi, 2016. During the hearing, the Discom submitted in writing that the actual height of the building is 16.80 meters, which is more than the required limit of 15 meters and hence the contention of the Discom that the connection can only be released only after the production of 'Fire Clearance Certificate' from the Fire Department is in order. The said applications for new connections were rightly rejected by the Discom on the grounds that the building in question is having height

more than 15 meters and as such unless 'Fire Clearance Certificate' from the Fire Department is produced, the connections cannot be granted.

The argument of Appellant that one connection was recently installed by Discom on 16.09.2019 in the same building has no basis since the said connection was an old existing connection which was lying disconnected and was reconnected on 16.09.2019 after completion/fulfillment of the required infirmities in the same. It is pertinent to mention here that the Supply Code regulations and amendments/clarifications made from time to time cannot be made applicable retrospectively.

Against the above background, in order to get the new electricity connections released by the Discom, 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 new electricity connections since the height of the building is more than 15 meters.

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


(S.C.Vashishta)
Electricity Ombudsman
18.03.2020