

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)

(Against the CGRF-BYPL's order dated 12.02.2024 in Complaint No.419/2023)

IN THE MATTER OF

Smt. Kamlesh

Vs.

BSES YAMUNA Power Limited

Present:

Appellant: Shri Rahul Choudhary, son, and Shri Neeraj Kumar, advocate.

Respondent: Ms. Pragya Paliwal, DGM (CMG), Ms. Chhavi Rani, Legal Retainer & Ms. Ritu Gupta, Advocate, on behalf of BYPL.

Date of Hearing: 15.05.2024

Date of Order: 16.05.2024

ORDER

1. Appeal No. 08/2024 dated 05.03.2024 has been filed by Smt. Kamlesh, R/o B-339, Ground Floor, Back Portion (Old Plot No. 7-B, Khasra No. 389/263) New Ashok Nagar, Near Sangam Gali, Delhi – 110091, against the Consumer Grievance Redressal Forum – BSES Yamuna Power Limited (CGRF-BYPL)'s order dated 12.02.2024 passed in Complaint No. 419/2023.

2. The instant case is that the Appellant purchased a plot measuring 100 sq. yards out of Khasra No. 389/263 from Smt. Kanti Devi, W/o Shri Ramesh Chand on 03.05.1988, and applied for a new domestic connection on 16.10.2023 vide Request No. 8006609413 for the ground floor of the said premises, which was rejected by the Discom by serving a deficiency letter dated 20.10.2023 on the grounds of (a) meter removal order against one temporary non-domestic connection bearing CA No. 351024307, b) One meter installed against CA No.101122321 found missing, c) the applied address was found in MCD's objection list vide their letter No.EE(B)-II/Sh(S)/2020/D-66 dated 23.01.2020 on account of unauthorized construction in the shape of the ground floor and first floor.



3. Before approaching the CGRF, the Appellant had moved Karkardooma Court against the Discom, and during the hearing held on 22.03.2023 before the ASCJ (Civil Suit No. 28/2023), the Assistant Engineer (Building-II), Shadhara (South Zone), MCD, confirmed, in his status report in respect of property bearing no.B-339, that the order of demolition notice dated 05.12.2019 u/s 343 of the Delhi Municipal Act, 1957, was served to Shri Mahak Satendra Kumar with directions to demolish the building under unauthorized construction. But owner/occupier failed to demolish the unauthorized construction. A demolition order was passed on 23.12.2019, and thereafter, demolition action programme was fixed for 27.12.2019, 08.01.2020 and 03.03.2020, but could not be executed due to the non-availability of the police force and shortage of time. However, Smt. Kamlesh withdrew her case from the Karkardooma Court on 29.11.2023 and approached the CGRF on 06.11.2023 with a request to get her electricity connection released, as the Discom has already released twelve (12) new connections at the left portion of the same premises, i.e., B-339 (Khasra No. 389/263) in New Ashok Nagar, Delhi – 110091.

4. However, the Discom submitted before the Forum that the twelve electricity connections were released in the name of Shri Satendra Kumar on the basis of the sanctioned building plan and an undertaking given by the consumer, as from the site report and MCD Objection list, it appeared that the adjacent building was not booked by the MCD. However, a notice dated 23.12.2022 was issued to him to submit the building completion certificate (BCC) issued by the MCD within seven (7) days, failing which action of disconnection of electricity connections will be initiated without further notice.

5. The CGRF-BYPL, in its order dated 12.02.2024 observed that the complainant, in her earlier complaint (No. 178/2022, later withdrawn), had denied the existence of two non-domestic connections but now admitted that there are two non-domestic electricity connections installed at the premises in question. According to the bill, a temporary non-domestic connection was energized on 30.07.2020 for construction of second floor, whereas, as per the photographs produced by the complainant before the Forum, there are only two floors i.e. ground and first floor.

In view of the above, the Forum opined that the complainant has been distorting the facts and misusing the process of law to achieve her objective by hook or by crook. On the other hand, the Discom has failed to exercise diligence and solve the riddle woven by the complainant. The Forum concluded that the complainant had failed to justify her request for a new electricity connection and dismissed the complaint.

6. Aggrieved by the CGRF order dated 12.02.2024, the Appellant preferred this appeal. The Appellant reiterated her stands as before the CGRF.



In addition, the Appellant submitted that the premises bearing No. 339, in question, is a big area and partly booked by the MCD vide its file No. 689/B dated November 7, 2019 in the name of Shri Mahak Satendra Kumar. As such, the property where connection is being sought is not booked & does not find mention in the MCD's objection list. The Appellant further stated that the building in question, was booked by the MCD on 07.11.2019. Further, one temporary connection bearing CA No. 350981388 was energized on 18.09.2019 in the name of Shri Satendra Kumar. However, her temporary connection bearing CA No. 351024307 was energized on 30.07.2020 for construction purposes. Furthermore, the building is booked against the name of Shri Satendra Kumar, in whose name twelve (12) connections were released during the period August, 2020 to January, 2021.

The Appellant prayed for (a) to set aside the CGRF's order dated 12.02.2024, (b) to release a new connection; and (c) any other order that may be deemed fit and proper.

7. The Discom, in its written submission dated 27.03.2024, contended that the Appellant had filed a complaint CG No.178/2022 for release of seven (7) electricity connections in subject premises which were rejected primarily on account of MCD Booking. The said complaint was withdrawn by her on 13.12.2022 after the pleadings were completed. While referring to booking in the name of Shri Satender Kumar, the respondent also stated that the subject property is of 400 sq. yards and divided into four portions of 100 Sq. yards each. The building structure consists of basement + ground floor + first floor with 3 shops and 3 flats at ground floor and 3 flats on first floor. There are three connections existing in the name of Smt. Kamlesh, one from 09.01.1995, one from 29.04.2015 on the ground floor and another from 30.07.2020 for construction on second floor, as a temporary connection. The Discom denied that when the property was booked on 07.11.2019 by the MCD, only the portion of Satendra Kumar was booked.

Further, notices were issued on 23.12.2022 where all twelve connections were installed for submission of 'BCC' but Shri Mahak Satendra Kumar, in whose name all the connections were released, failed to submit the same. After due process of law, connections stand disconnected. Discom again confirmed to this court vide e-mail on April 26, 2024, that the supply of all twelve connections registered in the name of Shri Satendra Kumar has been disconnected.

8. The appeal was admitted and taken up for the hearing on 15.05.2024. During the hearing, the Appellant was represented by her son, Shri Rahul Choudhary and Shri Neeraj Kumar, Advocate and the Respondent was represented by its authorized representatives/counsel. An opportunity was given to both the parties to plead their case at length.



9. The advocate for the Appellant reiterated the facts of the case as in the appeal. The Advocate submitted that although there was a requirement of seven connections, she had applied for only one connection during 2023 which was refused by the Discom on account of alleged MCD booking in respect of property no.B-339. However, after 2019, 12 connections stood released in the name of "Satendra Kumar" and the Appellant had also got a temporary connection for construction purposes in 2020. Son of the Appellant, who was also present, informed the Court that all construction of shops and flats started from 2020 onwards after release of the temporary connection. In response to a query on status of existing connections and structure of premises before construction, her son submitted that a non-domestic meter existed at the property. In 2020, the old structure, which consisted of a small room, was demolished and new building was constructed after obtaining a temporary connection. The temporary connection still continues. However, he could not reply to a query as to why old meters of 1995 (now missing) and of 2015 were not surrendered before reconstruction. Regarding missing of the meter, he was not aware how the meter was found at the premises B-333 which did not belong to their family. However, he claimed to have received soft copies of 'Zero' bills regularly.

10 In rebuttal, Advocate for Respondent, reiterated its stand as in the written submission. The Advocate submitted that on account of MCD booking of the entire property, the connection could not be released. However, there was no answer to the point as to how 12 connections were released during 2020 and 2021 in favour of Shri Satendra Kumar, inspite of booking by MCD in 2019. The Court was also informed by the Respondent that, as brought to the notice in the written submission, disconnection of the 12 connections was carried out from the pole but the same were reconnected by the opposite party (Satendra Kumar) without their knowledge. These could not be disconnected again due to public unrest / protest at site, whenever the team from Discom went there for necessary action. When asked whether the disconnection carried out was punched in the system as temporary disconnection (TD), the Respondent answered in positive. The inaction by the Discom regarding disconnection of these meters between 2022 to 2024 could not be satisfactorily explained by the REspondent. It was admitted by the Respondent, that the notices were served to "Mahak Satendra Kumar" and not to Smt. Kamlesh (Appellant). When further asked whether any clarification from MCD with respect to exact property booking had been sought from the MCD between 2022 to 2024, the Respondent declined to have obtained any clarification.

11. It is apparent from the record that no notice or booking in the name of Smt. Kamlesh existed and that the status report submitted by the MCD before the civil court in the civil suit categorically mentioned booking in the name of "Satyendra Kumar". At the same time, it was not disputed that no clarification letter / or other



communication was sent to the MCD by the Discom during 2022 to 2024 for ascertaining the status and exact nature of booking. Moreover, the question of any booking in the name of Smt. Kamlesh, the Appellant, could not have arisen since the construction activity was carried out after 2020 only when the MCD had already booked the premises of Satyendra Kumar.

During hearing, Advisor (Engineering) asked two questions with the Respondent, (i) Was reading of missing meter down loaded regularly at address B-333, New Ashok Nagar ? The answer was in positive. (ii) During regular monthly reading, did meter reader capture any exceptional parameters in Programmable Display System (PDS) / reported to senior about meter found shifted from B-339 to B-333 ? The Respondents were speechless.

While Regulation 7 (5) of DERC Supply Code, 2017 clearly stipulates that meter can be shifted within the same premises, the shifting of the meter to another premises was sheer negligence and bereft of any logic by the Discom. Respondent was directed to provide the details / readings of missing meter (CA No.101122321). On 16.05.2024, the details were submitted by the Respondent. From perusal of reading chart, it has been observed that meter readings against the said connection are constant from 16.08.2020 to 14.05.2024, however, Discom is raising the 'Zero' amount bills which establishes that discom is raising bill on virtual basis only & actually the meter is being used at site B-333.

12. It is a matter of concern that why no action has been taken against the concerned meter reader / officials. A detailed enquiry report in respect of entire episode needs to be submitted to fix responsibility on the erring officials. It is also noted that requirement of surrendering of both the meters before obtaining a temporary connection for construction purpose was totally ignored by the Respondent, in blatant violation of Regulation 10 (5) of DERC (Supply Code and Performance Standards) Regulations, 2017.

13. After detailed study of the appeal, written submission and after hearing the contending party, the following issues emerge:

- i) It is apparent from the record that during 2022 and 2023, the connections applied for by Smt. Kamlesh were rejected on the ground that 'MCD' had booked the premises on account of unauthorized construction. However, the Discom has not produced any record to substantiate booking of any portion of the property 389/263, New Ashok Nagar in the name of Smt. Kamlesh. There is no notice on record since the purchase of 100 sq. yards of the plot in 1988, in respect of unauthorized construction at any stage from 1988 till 2022.




- ii) In the case of Shri Satendra Kumar, MCD had issued Show Cause Notice on 07.11.2019, included the particulars of property in the letter dated 23.01.2020 in the name of Mahak. Even the Discom in their letter dated 23.12.2022 addressed to Shri Satender Kumar, mentioned about booking of the premises by EDMC (now MCD) for unauthorized construction and calling upon him to submit BCC. There was no action for disconnection from 2022 till January, 2024, in violation of Parivartan Case guidelines by Delhi High Court.
- iii) 12 connections were released in favour of Satender Kumar during 2020 and 2021 ostensibly on the strength of an undertaking stating that the building is constructed as per building bye laws. There is no provision in DERC (Supply Code and Performance Standards) Regulations, 2017, for such an undertaking forming part of release of connection. This necessitates an in depth probe by the CEO to ascertain the back ground for release of connections, even though Show Cause Notice of 07.11.2019 for demolition and letter dated 23.01.2020 were on record, and to evaluate negligence / connivance of the officers / staff in release of the applied connections. Whether at any stage, Discom took up the matter with MCD to ascertain booking in the name of Smt. Kamlesh, is not borne from record.
- iv) The CGRF has not examined the above aspects, while dismissing the complaint.
- v) Going by the reply dated 27.03.2024 of the Discom, it is clear that the three connections in the name of Smt. Kamlesh were released during 1995, April, 2015 and July, 2020 since there was no booking.
- vi) The status report dated 24.11.2023 submitted by the Asst. Engineer (Building-II) Shahdara (South) Zone in Civil Suit No.28/2023 filed by Smt. Kamlesh against BSES YPL before Karkardooma Courts, categorically states that the booking for unauthorized construction was in the name of Mahak Satendra Kumar, for which a show cause notice and demolition notice were issued. At no stage, therefore, any booking for unauthorized construction in the name of Smt. Kamlesh was under consideration.
- vii) Regarding missing meter, Discom replied on 13.05.2024 to this office stated that, *"As per the consumer, the meter no.35125424 (DX-no floor) is removed by the BSES but it was found at the opposite side of the applied premises having address B-333 New Ashok Nagar."* Such shifting was contrary to Law.



14. This Court, therefore, directs as under:

- (a) Order dated 12.02.2024 passed by the CGRF is set-aside.
- (b) Discom may take immediate steps to release electricity connection applied for immediately after completion of commercial formalities.
- (c) Vigilance enquiry be ordered by the CEO into the aspect of release of connections in the name of Satendra Kumar, despite MCD booking, and fix responsibility on the erring officials for flouting the dictum of the Delhi High Court in Parivartan Case. The enquiry may also look into the acceptance of Undertaking for release of connections. As per DERC Regulations, 2017, there is no mention of any Undertaking.
- (d) A new meter be also installed in place of the missing meter at the premises of Smt. Kamlesh.
- (e) Regarding shifting of missing meter from B-339 to B-333, an enquiry be conducted and appropriate action be taken.
- (f) The temporary connection in the name of Smt. Kamlesh be withdrawn immediately and a system for monitoring the existence of every temporary connection be put in place by the CEO as the temporary meters are installed for particular purpose and are required to be withdrawn within a year, unless extension is allowed as per Regulation 16 of DERC Supply Code, 2017.
- (g) In the case 12 connections of Mahak/Satendra, whose supply was disconnected & was illegally restored, action must be initiated in view of the Parivartan Case.

The Compliance report be submitted within four weeks of this order. The appeal is disposed off accordingly.


(P. K. Bhardwaj)
Electricity Ombudsman
16.05.2024