

**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 29.02.2024 in Complaint No.456/2023)

**IN THE MATTER OF**

**Shri Harmesh Kumar**

**Vs.**

**BSES Yamuna Power Limited**

Present:

Appellant: Shri Rakesh Sharma, Authorized Representative.

Respondent: Shri Nishant Chauhan, Sr. Manager, Ms Chhavi Rani, Legal Retainer & Ms Ritu Gupta, Advocate, on behalf of BYPL

Date of Hearing: 22.05.2024

Date of Order: 24.05.2024

**ORDER**

1. Appeal No. 09/2024 dated 27.03.2024 has been filed by Shri Harmesh Kumar, R/o House No.39, 2<sup>nd</sup> Floor, Old Anarkali, Krishna Nagar, Delhi – 110051, against the Consumer Grievance Redressal Forum – BSES Yamuna Power Limited (CGRF-BYPL)'s order dated 29.02.2024 passed in Complaint No. 456/2023.

2. The instant case is that the Appellant, Shri Harmesh Kumar, had purchased a built up flat at 2<sup>nd</sup> floor, left portion of property no.39, Old Anarkali, Krishna Nagar, Delhi – 110051, from Smt. Pushpa on 06.08.2012 through a registered Sale Deed, wherein one domestic connection bearing CA No.150074887, in the name of Pushpa Rani, already existed since 20.05.2011. The said connection was disconnected due to non-payment of bills by his tenant during Covid-19 period which resulted in removal of meter by the Respondent. Appellant, therefore, applied for a new domestic connection on 12.10.2023 & 13.11.2023 respectively.





3. During site visits on 17.10.2023 & 14.11.2023, the Respondent found that the building consists of Ground + 4 floors; 9 dwelling units exist & 9 electricity meters are installed there; On ground floor, a 3 phase meter exists for lift and a dwelling unit; Applied floor is effectively third floor. Respondent rejected the request for new connection on the grounds; a) building is booked by the MCD for unauthorized construction in the shape of GF, FF, SF, TF & Fourth Floor, mentioned at Sr. No.51 vide EDMC letter bearing no.EE(B)-1/Shah(S)/2018/D-2020 dated 08.08.2018. b) Outstanding dues of Rs.48,978/- viz. CA No.150074887 (RC – Ms Pushpa Rani), admittedly are payable by the Appellant in his letter dated 17.10.2023. Respondent also relied upon various judgements of High Court of Delhi, objection list of MCD and Regulation 10 & 11 of DERC Supply Code, 2017.

4. The Appellant contested the matter before the CGRF by posing questions such as i) What steps have been taken by the Respondent/BYPL on the EDMC letter dated 08.08.2018 with respect to disconnection of electric supply against 69 properties booked for unauthorized construction; ii) On what basis/documents, ten connections were granted in 2011 to the individuals residing in the subject building.

5. The CGRF-BYPL, in its order dated 29.02.2024, endorsed the rejection of application of Complainant for a new connection in the light of building being in MCD objection list of unauthorized construction, mentioned at Sr. No.51 in the shape of GF, FF, SF, TF & Fourth floor, vide EDMC letter no.EE(B)-I/Shah(S)/2018/D-2020 dated 08.08.2018 & outstanding dues of Rs.48,978 of CA No.150074887 (RC-Ms. Pushpa Rani) which admittedly are payable by the Complainant. It was observed that the alleged connections were installed in 2011 in the subject property, while it was booked by MCD in 2018.

CGRF opined that that Complainant has failed to produce the genuine/correct Completion Cum Occupancy Certificate issued by MCD North Zone which should be presented for release of new connection, especially in view of the directions dated 20.12.2017 of Hon'ble High Court of Delhi in the matter of Parivartan Foundation vs. SDMC & Ors. Reliance on Hon'ble High Court of Delhi order in case of W.P. (C) 2453/2019, dated 06.02.2020 (title: Ms. Azra vs. The State (G.N.C.T. of Delhi) & Ors.) was also placed since the Court had held that it could not be a party to a continuing wrong.

6. Aggrieved by the CGRF order dated 29.02.2024, the Appellant has preferred this appeal. The Appellant has reiterated his stand as before the CGRF. Moreover, the information sought through RTI by him from the MCD is not clear with respect to applied address. Appellant, therefore, contested that the property no.39 (old building) is having eight portions i.e. on four floors eight portions on the left and right side. Total six floors (left side) are booked by MCD in the name of one Manoj / owner of alleged similar design building. His 2<sup>nd</sup> floor does not have any unauthorized construction.





The Appellant prayed to pass an order for release of requisite connection, considering his family's condition

7. The Discom, in its written submission dated 15.04.2024, reiterated its stand as before the CGRF. Regarding first objection, Respondent had issued a letter dated 12.03.2019 to MCD for arranging a joint operation alongwith Delhi Police etc. in order to carry out disconnections in terms of notices of MCD, as per directions of Hon'ble Supreme Court of India and the High Court of Delhi. Regarding Site Plan, the same were duly provided with their written submission to the Appellant. Therefore, the Respondent asserted that it is not in a position to release the connection as sought by the Appellant.

8. The appeal was admitted and taken up for the hearing on 22.05.2024. During the hearing, the Appellant was represented by authorized representative, Shri Rakesh Sharma 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. During the course of hearing, the Authorized Representative (AR) appearing for the Appellant reiterated his allegations as in the appeal, also referring to the MCD booking during 2018. AR asserted that the nine connections were existing in the building except his left portion on the 2<sup>nd</sup> floor. A photograph referred by the AR from the available records also indicated existence of balconies on the various floors except his premises/flat. The Appellant had visited the division office after 15 days of disconnection but on account of difference in the floor mentioned for existing connection (RC-Pushpa Rani) as "Third Floor" whereas the property documents mentioned as "2<sup>nd</sup> floor", hence, the reconnection could not be processed. Thereby, he has been left without an electricity connection till date.

10 In rebuttal, Advocate for Respondent, referred to the EDMC letter as well as content of reply to RTI which clearly states that all the floors "Ground Floor, First Floor, Second Floor, Third Floor & Fourth Floor (occupied)" were booked by the MCD in the year 2018 for unauthorized construction. In the light of unauthorized construction, the Discom was unable to release any connection, as prayed for.

11. After detailed consideration of the appeal, written submission and after hearing the contending parties, the following aspects emerge for consideration:

- (i) The building no. 39, Old Anarkali in question comprises of GF + 4 floors. The Appellant purchased a portion of 2<sup>nd</sup> floor (83.6 sqm) (100 sq yards) through Sale Deed on 06.08.2012 from Smt. Pushpa Rani. There was a





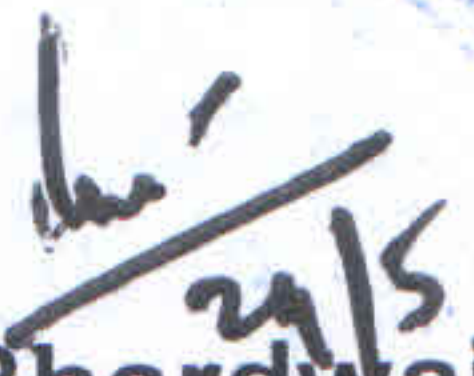
connection CA No. 150074887 in the portion, besides 9 other connections in the building. The connection in the name of Smt. Pushpa Rani got disconnected during COVID period on account of non-payment of dues and amount of Rs.48,978/- is outstanding.

- (ii) The MCD vide its letter dated 08.08.2018, booked the building for unauthorized construction in the shape of GF/FF/SF/TF and IVth Floor.
- (iii) No action appears to have been taken by the Discom as well as the MCD after a letter dated 12.03.2019 was written to EDMC for removal / sealing the unauthorized construction. This is violation of the DICTUM by the Delhi High Court in Parivartan case, as well as the task force constituted by the DDA, pursuant to the order dated 24.04.2018 by the Supreme Court in WP(c) 4677/1985, for action plan for monitoring all construction activities in Delhi and action on unauthorized construction.
- (iv) On account of unauthorized constructions, the applied connection has effectively become third floor.

12. This court, therefore, directs as under:

- (a) Order dated 29.02.2024 passed by CGRF BYPL is upheld.
- (b) It is open to the appellant to approach the MCD for issue of a Building completion Certificate (BCC) within 2 weeks. In the event of issue of the requisite certificate by the MCD, the connection applied be released on payment of the outstanding dues and completion of other formalities.
- (c) Discom is directed to undertake a review of the other 9 connections, in the light of the MCD booking and to take appropriate action in the light of the direction of the Delhi High Court in the Parivartan Case.
- (d) The action taken report be submitted within four weeks of this order.

The appeal is disposed off accordingly.

  
(P. K. Bhardwaj)  
Electricity Ombudsman  
24.05.2024