

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. 10/2023

(Against the CGRF-BRPL's order dated 27.12.2022 in CG No. 85/2022)

IN THE MATTER OF

Shri Ramesh Chand

Vs.

BSES Rajdhani Power Limited

Present:

Appellant: Shri Ramesh Chand, in person.

Respondent: Shri S Bhattacharjee, Sr. Manager, Shri Amit Kumar, Manager, Shri Arav Kapoor, Shri Rahul Dwivedi and Ms. Komal Gupta, Advocates, on Behalf of BRPL

Date of Hearing: 28.06.2023

Date of Order: 03.07.2023

ORDER

1. Appeal No. 10/2023 has been filed by Shri Ramesh Chand, R/o 18/173, DDA Flats, Dakshin Puri Extension, Delhi - 110062, against the CGRF-BRPL's order as cited above.

2. The instant case is that the Appellant (Shri Ramesh Chand) had applied for a domestic electricity connection on 04.04.2022 at his premises bearing No. 3/661, Second Floor, Dakshin Puri Extension, Delhi - 110062, which was rejected (on 29.04.2022) by the Respondent on the ground that the property, in question, is listed in MCD's objection list. Against this, the Appellant filed a complaint in the CGRF-BRPL in June, 2022 and stated that there are already two electricity connections installed by the Respondent on the ground floor and third floor. Out of this, the third-floor connection was released in 2017. The Appellant also stated that a water connection in his name had already been installed at the premises after filing all the

relevant documents. Furthermore, the Appellant submitted that a permanent/mandatory injunction in the case of Tarun & Ors vs Pradeep & Ors (CS No. 28814) was filed against the said property in which MCD (erstwhile SDMC) was also a party. Later, the case was settled vide order dated 06.02.2015 between all the parties through mediation. As such, the Respondent has behaved arbitrarily and is biased toward him by raising objections and requested to direct the Respondent to release the connection.

3. However, the Respondent submitted that the premises, in question, is under MCD's objection list vide their letter No. D-2855/AE(B)/SZ/14 dated 31.12.2014. Hence, the connection was not released and they requested the Appellant for a 'No Objection Certificate' (NOC) from the MCD for getting new electricity connection released. Moreover, they also submitted letters dated 19.05.2022, 08.08.2022, and 19.10.2022, requesting MCD to send the current status of the building, but have not received any reply. Even, officials of the respondent personally visited the MCD's office on 15.11.2022 but did not receive any reply. The Respondent has also confirmed that an electricity connection bearing CA No. 152331347 was installed in the name of Smt. Sunita at 3/661, Top Floor on 23.12.2017 and, another connection having CA No. 1017422 existed in the name of Shri Sham Lal since 01.01.1990.

4. The CGRF-BRPL directed the Respondent to check the status of the property and also directed the Appellant to obtain 'NOC' from the MCD, but both parties failed to submit any documents. The Forum ordered that if the complainant is in a position to bring NOC from MCD, or in case the MCD provides the status report, in response to the Respondent's letters dated 19.05.2022 and 19.10.2022, stating that the said premises, i.e . 3/661, Second Floor, Dakshinpuri Extension, Dr. Ambedkar Nagar, Delhi - 110062, is no longer under MCD's objection list, an electricity connection could be released to the complainant after completing commercial formalities as per DERC's Regulations.

The Respondent, however, did not submit any explanation/reason with respect to the release of electricity connections bearing CA No. 152331347 in the name of Ms. Sunita on 23.12.2017, while the said premises was already booked under MCD's unauthorized construction, as early as 31.12.2014..

5. Aggrieved from the CGRF's order dated 27.12.2022, the Appellant preferred this appeal on the ground that (a) the property dispute has already been settled and disposed off, (b) the MCD is not providing any NOC with regard to the current status of the building, (c) two electricity connections have already been released/installed in the building and (d) water connection in his name clearly states that the subject



property is not in the MCD's objection list and (e) prayed to direct the Respondent to release the new connection at the second floor.

6 The appeal was admitted and taken up for the hearing on 28.06.2023. During the hearing, the Appellant was present, in person, and the Respondent was represented by their Authorized Representatives/Counsels. An opportunity was given to both the parties to plead their case at length.

7. During the hearing, the Appellant reiterated his contention as stated in his appeal. He also submitted that he had earlier applied for a connection on 18.10.2016, which was also rejected on the ground that the building was sealed by the MCD. In the year 2017, Respondent released the connection to Ms. Sunita despite the fact that the building continued in the MCD's objection list. The Respondent when asked why the connection was granted to Ms. Sunita in 2017, when the building was already booked by MCD, the Respondent could not respond convincingly.

8. In rebuttal, the Respondent submitted that an electricity connection bearing CA No. 152331347 at the third floor in favour of Ms. Sunita was installed on the basis of a duly signed/verified Affidavit on 23.12.2017, being the owner of the property, stating therein "that the premises was never locked or sealed by MCD to the best of her knowledge based on which a conditional approval was allowed". However, an error mentioned as "non-domestic" instead of "domestic" connection in the affidavit was objected to by the Advisor (Law), which was admitted by the Respondent. When it was asked if there is any procedure in Regulation for accepting "Affidavit", the Respondent submitted that there is no procedure but it was taken and the connection released was conditional. Respondent further submitted that the connection was released before the High Court's verdict in 'Parivartan Foundation' became public. When asked how connection was released after that verdict, they stated that there was only two days gap between the judgement date and release of connection, probably the import of judgment had not reached the level, where the request for connection was processed. No connections were granted after that. The Respondent further contended that the Appellant applied after the above cited High Court's order, hence, it is not possible to grant the electricity connection to him in the absence of 'NOC' from MCD.

Further, when asked the Respondent about follow-up with the MCD in respect of the current status of the building, the Respondent submitted that they are regularly following up on the matter with the MCD, but, the actual onus is on the Appellant. In

case the premises has no unauthorized construction then he can prove it before the MCD and obtain an 'NOC' from them, for release of connection.

9. Perusal of the record indicates that the connection at third floor was released in the name of Smt. Sunita W/o Shri Ajay on 23.12.2017 on the basis of a duly signed and verified affidavit stating that the premises was never booked or sealed by the MCD. There is no reference to any enabling provision in Regulation 10 of the DERC's Supply Code, 2017, for release of any connection in a premises in MCD's objection list on the basis of such an affidavit. There is also an inherent mistake in the content of the affidavit, which escaped notice of the authorities in the office of the Respondent. There is also no reference to any steps taken for disconnection of the two connections released in 1990 and 2017, even though all the floors of the property bearing No. 3/661 (Ground, First, Second, Third, Fourth and Fifth Floor) stand booked for un-authorized construction by MCD vide their letter dated 31.12.2014. With respect to the connection released in 1990 (first floor), it seems that the owner did not surrender the connection when the property was rebuilt (Regulation 10(5) (i-v) of DERC (Supply Code & Performance Standard Regulations, 2017) and continued with the old connection in the newly rebuilt building at the ground floor. The field staff/meter readers also turned a blind eye towards the illegal/irregular act of the occupant. There appears to be no mechanism in place and a total absence of follow-up and co-ordination of the Discom with the MCD for a view on disconnection in case the connections are released in violation of law.


10. The matter has been considered in the light of the material on record and the submissions made by the parties. Since the premises is booked by the MCD for unauthorised construction, no relief can be granted to the Appellant. However, in the light of the glaring acts/omissions in the case, this Court directs as under:

- (i) CEO of the Discom is directed to take steps for immediate disconnection of the two connections on ground floor and third floor of the unauthorized premises besides removing of the meters installed. It has to be done in a time bound manner while coordinating with police authorities. Action taken report be shared with this court within next 30 days positively.
- (ii) A vigilance enquiry be ordered to fix the responsibility of the officer(s) who released the connection on the third floor on 23.12.2017 on the basis of the affidavit dated 19.09.2017, although the structure was booked by the MCD in the year 2014 (31.12.2014). There was a blatant violation of the directions by the Delhi High Court in Parivartan

Case, besides violation of Section 343/344 of DMC Act. The action taken report be shared with this office within 45 days.

- (iii) The field staff apparently carried out a perfunctory inspection, ignoring the unauthorised construction. Responsibility needs to be fixed on the erring officials, particularly for release of connection on the basis of an affidavit which is in total contravention of the procedure laid down by the law.
- (iv) A robust mechanism needs to be evolved for at least a quarterly consultation between officials of Discom and MCD for evaluation of status of buildings for release of connections as well as disconnections, wherever the connections stand issued in violation of law/guidelines.
- (v) It will be open to the Appellant to apply afresh for release of connection, after obtaining 'No Objection Certificate' from the MCD.

The appeal stands disposed off accordingly.


(P. K. Bhardwaj)
Electricity Ombudsman
03.07.2023