

**OFFICE OF 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. 13/2023**

(Against the CGRF-BYPL's order dated 27.03.2023 in Complaint No. 39/2023)

**IN THE MATTER OF**

**Shri Rashid Ahmed**

**Vs.**

**BSES Yamuna Power Limited**

**Present:**

Appellant: Shri Vinod Kumar, Advocate, on behalf of the Appellant

Respondent: Shri Nishant Chouhan, Manager, Ms. Shweta Chaudhary,  
Legal Retainer and Ms. Ritu Gupta, Advocate, on behalf of  
BYPL

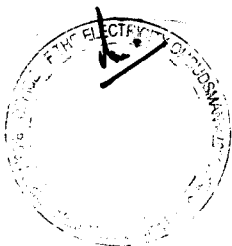
Date of Hearing: 14.06.2023

Date of Order: 15.06.2023

**ORDER**

1. Appeal No. 13/2023 has been filed by Shri Rashid Ahmed, R/o A-21 East Baldev Park, Delhi – 110 051, through Shri Vinod Kumar, Advocate, against the CGRF-BRPL's order as cited above.

2. The brief of the case is that the Appellant, who is occupant of the premises No. A-21, East Baldev Park, Delhi – 100051, had applied for release of two electricity connections for the second and third floor of the premises on 12.08.2022. The Respondent rejected both the requests vide communication dated 09.12.2022 on the ground that the premises, in question was already booked by Municipal Corporation of Delhi (MCD), erstwhile EDMC, as unauthorized construction vide its letter No. EE(B)-III/Sh-N/2019/D-873 (Serial No. 41) dated 16.07.2019 with subject matter "request to disconnect the electricity supply of unauthorized construction", hence,



demand a 'No Objection Certificate' or Building Completion Certificate/Occupancy Certificate MCD for release of the connections.

3. The Appellant claimed that there is only one single property No. A-21, East Baldev Park, Delhi, and one non-domestic (CA No. 100903870) and one domestic connection (CA No. 150537926) in his name have already been installed at the ground floor of the said premises. Even though he has submitted RTI's reply dated 20.02.2023 received from MCD duly mentioning that *"as per record First Floor, Second Floor & Third Floor of property bearing No. A-21, East Baldev Park, Delhi is not shown booked under unauthorized construction. However, the information in respect of booking of unauthorized construction/sealing action are also available on MCD Website i.e., www.mcdonline.nic.in."* The Respondent rejected his request for a release of new connections, ignoring the reply to the RTI application.

4. In rebuttal, the Respondent stated before the CGRF that during site visit, it was found that the applied premises is having Ground Floor + 3 Floors, wherein two electricity connections (one non-domestic - CA No. 100903870 and one domestic - CA NO. 150537926) in the name of Shri Rashid Ahmed already exist. The address of the complainant in the MCD's objection list is A-21, East Baldev Park, Delhi, and booked under unauthorized construction at ground floor (projection on municipal land). Thus, complainant was advised to submit either 'NOC' or 'BCC' from MCD.

The Respondent also submitted that in this regard they have already sent communication vide letters dated 24.09.2019 and 06.03.2020 to clarify the status of the building from the MCD, but no reply has been received as yet. They also stated that RTI is a response and cannot be equated with any order passed by the competent authority or with 'NOC' and 'BCC'.

5. Further, as per site-plan submitted by the Respondent along with written submissions, it has been found that there are two premises of the same number, i.e. A-21, East Baldev Park, Delhi. Left side has constructed only ground floor and a meter No. 357746870 installed there. On the other side, premises constructed having ground + three floor and two electricity connections (1-non-domestic and 1-domestic) already existed in the name of Shri Rashid Ahmed.

6. The CGRF in its order dated 27.03.2023, stated that applied connections were rejected on the pretext that premises was booked under Section 343 and 344 of Delhi Municipal Act, vide letter No. EE(B)-III/Sh-N/2019/D-873 dated 16.07.2019, as mentioned in para 3 supra. Accordingly, as per law, the premises have been constructed in violation of Rules and Regulations, therefore, the Respondent cannot



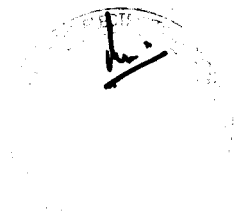
be compelled to release the connection. The Forum ordered that the Respondent has rightly rejected the application of new connections of the complainant.

7. Aggrieved from the above order of the CGRF-B YPL, the Appellant filed this appeal on the grounds that the impugned order passed by the Forum is against the principles of natural justice. Despite providing a number of documents in support of his complaint, viz; RTI reply dated 20.02.2023 on his application dated 15.02.2023 from MCD- PIO, which confirms that First Floor, Second Floor and Third Floor of property bearing No. A-21, East Baldev Park, Delhi -110051, is not shown booked under unauthorized construction. The Appellant also submitted three judgements of CGRF-BYPL related to the same subject matter and passed in favour of the complainants. Therefore, the Appellant prayed that (a) to set-aside the impugned order dated 27.03.2023 passed by the CGRF-BYPL, (b) to direct the Respondent to release the electricity connections for the second and third floor, (c) to compensate for the physical and mental harassment and (d) pass any other relief which may deem fit and proper in the facts and circumstances.

8. The appeal was admitted and taken up for the hearing on 14.06.2023. During the hearing, all the parties were present along with their respective Counsels/Authorized Representatives. An opportunity was given to both the parties to plead their case at length.

9. During the hearing, the Counsel of Appellant argued that though his client had submitted RTI's reply dated 20.02.2023, which established that First, Second and Third Floor of the subject property, viz No. A-21, East Baldev Park, has not shown "booked under unauthorised construction", the Respondent did not release the connections. When asked why electricity connections for second and third floor were not applied at the time of completion of the premises in 2009. The Counsel replied that as per requirement, two connections were got installed in 2009 & 2012. The Counsel further stated that neither Respondent is aware of exact property booked nor he has received any notice from MCD. The Appellant also requested to release the connections after taking 'Undertaking' from him as released earlier on the various order of CGRF-BYPL .

10. In rebuttal, the Respondent reiterated its version submitted in their written statement. The Respondent also confirmed that two electricity connections (one commercial and one domestic) in the name of the Appellant (Rashid Ahmed) were released on the subject property.

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The Respondent was further asked whether there is any record which establishes unauthorized construction on second and third floor or it is based on mere presumption. In response, the Respondent refers to a sketch of the premises submitted along with its written submission, which shows that there are two premises of the same number, i.e, A-21, East Baldev Park, Delhi - 110051. On the one side, there is only ground floor constructed on the plot and having electricity connection (meter no. 35746870). On the other side, a building constructed with Ground Floor + 3 Floor, having two electricity connections (Meter Nos. 55358865 and 35094303) already and this is the premises where electricity connections are sought. The Respondent further submits that clarification in this regard has already been sought from MCD but no response received as yet. Advisor (Engineering) asked to submit an 'Inspection Report' of both the connections energized in 2009 and 2012 to clarify how many floors were constructed at the time of installations of these connections.

11. It is apparent from the record that no steps were taken by the Respondent to take up the matter with the MCD at any time after 2019 and till 2022, pertaining to the new connections on the second and third floor of the same premises, even though the list of 2019 did not mention these details. This has resulted in deficiency of service and rejection of the request without any cogent reasons. It is also not the case of the Respondent that the building height where connections are applied for, is more than 15 meters which necessitates 'NOC' or 'BCC' from the MCD. There is also a total absence of any robust mechanism for action by MCD/ follow up by Respondent, once premises is reported as booked by MCD for unauthorised construction. The impasse thus created causes harassment and misery to the consumers. In this particular case there is a document in the form of a reply from MCD on RTI query stating therein specifically that the property (where connections are sought) is not booked. Even the order of MCD dated 16.07.2019 also suggests that the ground floor of the property has been booked for extension on municipal land (At Item No. 41). But there are no documents to prove to the contrary i.e. the floors where the connections have been sought are booked by MCD for unauthorized constructions. MCD's reply to various communications from Respondent is still pending.

12. In view of the foregoing, the Court, therefore, directs as under:-

- (a) Respondent is given time till 26.06.2023 to get the reply from MCD to their communication of different dates with regard to this property. In case there is no reply or the reply is in line with reply to RTI query, respondent would release the connections applied for by the Appellant, after completion of

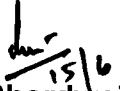


the commercial formalities. In case the reply mentions that the building is booked for unauthorized construction with a specific mention of First Floor/Second Floor/Third Floor, Respondent may not release connections in view of the 'Parivartan Case'.

(b) Respondent may initiate necessary action in the case of connection at Ground Floor as contemplated by Delhi High Court in Parivartan Case.

(c) Action taken report may be sent by 28<sup>th</sup> of June, 2023.

The appeal is disposed off accordingly.

  
(P.K. Bhardwaj)  
Electricity Ombudsman  
15.06.2023