

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. 18/2020

(Against the CGRF-BYPL's order dated 29.07.2020 in Complaint No.20/2020)

IN THE MATTER OF

Shri Anil Gupta

Vs.

BSES Yamuna Power Limited

Present:

Appellant: Shri Pooran Chand, Authorised Representative, on behalf of the Appellant

Respondent: Shri Ravi Kant Dwarka, Manager, Shri Imran Siddiqi, Manager (Legal) and Ms. Ritu Gupta, Advocate, on behalf of BYPL

Date of Hearing: 10.12.2020

Date of Order: 21.12.2020

ORDER

1. The appeal No. 18/2020 has been filed by Shri Anil Gupta, against the order of the Forum (CGRF-BYPL) dated 29.07.2020 passed in Complaint No. 20/2020. The issue concerned in the Appellant's grievance is regarding release of new electricity connection as per the orders of the CGRF at his premises bearing No. H-113 A, Shakarpur, Delhi - 110092.

2. The brief background of the appeal arises from the fact that the Appellant applied for nine new electricity connections to be installed at his premises which were rejected by the Discom (Respondent) on account of encroachment of the Discom's pole by the Appellant. The Appellant submitted that the electricity pole which has been mentioned by the Discom in their deficiency letter is installed near the corner of his building and he has also left sufficient space for the said electricity pole. He further submitted that since the Discom was not releasing the



electricity connections even after lot of pursual, he approached the CGRF for redressal of his grievances. The CGRF, after hearing the matter, vide its order dated 29.07.2020 directed that the complainant/Appellant shall remove all the objections raised by the Discom and provide adequate space to the Discom for releasing /granting the electricity connections and thereafter the Discom will release the new electricity connections as per the DERC Regulations, 2017.

The Appellant further stated that as per the orders of the CGRF, he has made proper and adequate space by breaking and dismantling the relevant portion of his building, in order to clear the area all around the electricity pole of the Discom. The above action was carried out by him as per the direction of the Discom officials and in accordance with the orders of CGRF. After carrying out the necessary work, the status of the matter was duly communicated to the CGRF as well as to the Discom for releasing the connections. Even after carrying out the above modifications by him, the Discom did not release the connections and came out with new objections every time he approached them. Now, finally the Discom has come up with the latest objection that there is no horizontal and vertical clearance available between the building, the pole and the connected cables and further in case they have to remove or lift the pole, there is no vertical space to do the same. Secondly, the Discom has also contended that there is no space for the installation of three phases Distribution Box (DB), so on account of above hindrances the connections cannot be released unless he removes/dismantles some more portion of his building adjoining the pole. The Appellant further submitted that the portion of the building which the Discom wants him to remove is not possible for him and secondly the said electricity pole in consideration is not under his roof and hence the contention of the Discom that there is no vertical space above the pole on account of his building is not tenable. The Appellant also submitted few photographs before and after the dismantling of the relevant portion of the building, which were taken on record. The matter was again taken up by the Appellant with the CGRF for implementation of their orders with respect to release of the connections, and since he did not get any satisfactory response from them, he has preferred this appeal with the request to get the electricity connections released as per the orders of the CGRF.

3. The Discom in its reply submitted that the Appellant applied for nine new electricity connections and all the applications were rejected by them due to encroachment of electricity pole, from where the connections were to be released, by the Appellant on account of illegal/unauthorized construction carried out by him. Discom further submitted that as per the directions of the CGRF during the hearing, a joint inspection of the site was carried out on 20.07.2020 and the joint



site report which is also a part of the CGRF order is reproduced here as under for clarity of the matter:

- i) The pole and service line condition was same as earlier. The complainant has encroached the electricity pole.
- ii) The service line and pole which supplies electricity to many households has no clearance at all from the subject property.
- iii) The DB stuck between walls due to unauthorized structure. Our lineman was unable to attend NCC (No Current Complaint) and in future if the pole is damaged by any unknown means we cannot replace.
- iv) The clearance above pole should be done by the owner and horizontal clearance of 1.2 meter is required.

The Discom also stated that the construction and extension by the Appellant is not only illegal but also causing grave and serious threat to the public safety. Further, the said construction is in total violation and contravention of the provisions of the Act and Electricity Rules, 1956, which lays down the clearance of the area from the poles/wires for safety of the public and smooth functioning of the supply system. It has been further added by the Discom that they are not able to maintain and repair the service lines/pole etc., which may result into failure/outage in the supply of the electricity for which they will not be responsible in any manner. The Discom further stated that they have also issued a letter-cum-notice dated 27.02.2020 to the Appellant calling upon him to remove the projection/balcony/construction in line and conformity with the safety rules as specified by CEA (Central Electricity Authority), Measures relating to Safety and Electric Supply Regulations,, 2010, as amended from time to time. The Appellant was also asked to remove unauthorized construction so that minimum required distances are maintained. The Discom further informed that the copy of the said letter was also sent to SHO, PS, Shakarpur, EDMC, Chief Electrical Inspector of Govt. of NCT and SDM Shakarpur.

The Discom also clarified that various E-mails were sent by the Appellant during September, 2020, informing them regarding the removal of the objections raised by them for release of the new electricity connections, wherein it was also mentioned that he has provided adequate space around the pole by removing/dismantling the required portion of the structure and hence the connections be released. The said communications of the Appellant were promptly replied by them vide letter dated 15.09.2020 wherein the Appellant was informed that as the objections which were raised earlier continues to subsist as

such it is not possible to grant fresh electricity connections. The Discom finally contended that by way of the present appeal, the Appellant is seeking compliance of the order of the CGRF as he has complied with the aforesaid order. Further, from the photographs submitted by the Appellant, it is quite clear that the pole continues to be surrounded by illegal construction. Thus the order passed by the CGRF has not yet been complied with by the Appellant and as such the present appeal is not maintainable and is liable to be set aside.

4. After hearing both the parties and considering the material on records, the basic issue revolves around the objection raised by the Discom regarding encroachment of the network pole by the Appellant, from where the connections of the Appellant are to be released. The other main objection is regarding the distance of the pole and wires/cables from the building which have not been maintained as specified under the CEA Regulations, 2010 as amended from time to time. These regulations basically pertain to the measures relating to Safety and Electricity Supply and have to be followed in true letter and spirit in view of the public safety at large. From the material available on the records it is observed that the electricity pole is surrounded from both the sides and there are serious safety issues involved since the service line and pole which also supplies electricity to many other households has no clearance at all from the property in consideration. The building of the Appellant is encroaching the said pole and the objection of the Discom that DB is stuck between the walls due to the unauthorized structure and in case there is a need to replace the pole in future, it will not be possible for them to do so, is in order. The contention of the Discom that various clearances as per CEA, Safety Regulations, 2010, have to be maintained and particularly in the present case the observations of Discom that horizontal clearance of 1.2 meter is required to be maintained is also valid and has to be complied with by the Appellant before the connections are released.

5. In view of above background, the CGRF has rightly decided that the Appellant shall remove all the objections raised by the Discom and provide adequate space to them for releasing/granting the new electricity connections and thereafter the Discom will release the connections in accordance with the DERC Regulations, 2017. The basic demand in the present appeal raised by the Appellant is regarding the implementation of the above order of the CGRF. In this regards, the Appellant has submitted that he has already removed/dismantled the various portions of his structure as per the directions of the officials of the Discom but still the Discom is asking for dismantlement/demolition of some more portion of his building which is not at all required since the rest of the encroachment is on account of the adjacent building on the other side of the pole. From the records

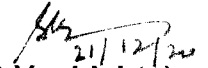


and the arguments during the hearing, it has been also observed that neither the CGRF in its order nor the Discom later on, never ever identified/pointed out in writing to the Appellant in one go regarding the exact and specific unauthorized and objectionable portions of the building to be removed by him for releasing the connections. This has created an unnecessary confusion which has to be sorted out to make the things crystal clear once for all. In order to bring the clarity the Discom and the Appellant were asked to have a joint visit in order to identify the minimum portion to be modified or dismantled by the Appellant keeping in view the safety norms and the ease of maintaining the system by Discom for releasing the connections and submit the report by 17.12.2020.

However on 17.12.2020, the Discom submitted that the Appellant has withdrawn the appeal through a withdrawal letter dated 15.12.2020 duly Notarized. The Appellant vide withdrawal letter has submitted that while exploring the possibility of settlement and in pursuance of the same both the parties have approached at an amicable settlement and he is satisfied with the action taken by the Discom. Therefore, he withdraws his appeal filed before the Ombudsman against the Discom (BYPL). In view of the withdrawal/satisfaction letter submitted by the Appellant the appeal is hereby decided as closed.

6. In addition to above, from the photographs submitted on records it is quite evident that the condition of the wires and service cables etc. on and around the said pole are in a very shabby condition and hazardous and therefore it can cause danger to the public at large. It is the duty of the Discom to maintain the above, keeping in view the safety norms. In view of the above, CGRF in its second part of the order has rightly directed the Discom to maintain the service cables, wires which seem to be hazardous for the safety and security of human beings, animals and nearby property. Keeping in view the same, the Discom is directed to get the needful done in compliance to the order of the CGRF.

In view of the withdrawal of the appeal by the Appellant, the appeal is disposed of accordingly.


(S.C.Vashishta)
Electricity Ombudsman
21.12.2020