

**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**

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**Appeal No. 18/2024**

(Against the CGRF-BYPL's Order dated 27.05.2024 in CG No. 121/2024)

**IN THE MATTER OF**

**Shri Parmod Srivastav**

**Vs.**

**BSES Yamuna Power Limited**

Present:

Appellant: Shri Rizwan Ahmed, Authorized Representative on behalf of  
the Appellant

Respondent: Ms. Seema Rawat, DGM, Ms. Chhavi Rani, Legal Retainer and  
Ms. Ritu Gupta, Advocate, on behalf of BYPL

Date of Hearing: 28.08.2024

Date of Order: 29.08.2024

**ORDER**

1. Appeal No. 18/2024 dated 01.07.2024 has been filed by Shri Parmod Srivastav, R/o A-879, Giri Marg, Near Budha Marg, Mandawali, Fazalpur, Delhi - 110092, through his authorized representative Shri Rizwan Ahmed, against the Consumer Grievance Redressal Forum – BSES Yamuna Power Limited (CGRF-BYPL)'s order dated 27.05.2024 in Complaint No. 121/2024.

2. The background of the case is that the Appellant had purchased a flat on the front side of 2<sup>nd</sup> floor portion area of 50 sq. yards and the entire third floor of the building having No. A-41, New 539, Guru Nanak Gali, Mandawali, Fazalpur, Delhi – 110092, from Smt. Satish Kumari through General Power of Attorney on 11.12.2023 and applied for a new domestic connection vide Application No. 8006706297 for the



third floor. The Appellant also submitted an 'NOC' along with his application from Smt. Satish Kumari because till then he had not received the property documents from the concerned authorities. But the Discom rejected his application vide their deficiency letter dated 23.12.2023 mentioning that "MCD's No Objection Certificate or Completion and Occupancy Certificate is required and ownership dispute/court case/mis-match between applied address and existing meter bill address". In rebuttal, the Appellant claims that the occupants of the fourth floor, who are residing above the third floor have two electricity connections bearing C.A. Nos. 154330691 and 154326382, then how the third floor is in MCD's objection list or mismatch of address.

The Appellant also submitted that a temporary connection meter had earlier been installed outside the premises and CA No. was also mentioned on it. Further, the Appellant's plea is that electricity is the fundamental right and prayed to the Forum to direct the Respondent to release the electricity connection.

3. The Discom's submission before the Forum was that upon verification, it was found that premises, in question, was booked by the MCD for unauthorized construction in the form of ground to third floor. The Discom received a letter from MCD vide No. EE(B)-II/Sh(S)/2023/D-47 dated 19.04.2023 on 21.04.2023, whereby a list of properties booked by them was circulated. In the said list S. No. 7, refers to booked property bearing No. 539, Guru Nanak Gali, Mandawali, Fazalpur. The Discom further stated that at the subject premises, one temporary connection bearing CA No. 351338941 was energized on 03.09.2022 in which the address A-539, Guru Nanak Gali, Khasra No. 881, Mandawali, Fazalpur was mentioned. The same was surrendered on 21.12.2023 and at present, no connection exists at the site. After booking by MCD, the Appellant has altered/changed the address from 539 to A-41, New 539. Upon site verification, it was found to be the same property numbered differently. It was also found during the site visit that there is only one building bearing number 539 and the left and right sides of the building were numbered 538 and 540 respectively.

Moreover, in terms of Regulation 10 of DERC (Supply Code & Performance Standards) Regulations, 2017 – new electricity connection can be provided after filing specified form, as approved by the DERC. As per the said form, the applicant undertakes that the building is constructed as per prevalent building bye-laws. In case the premises is booked by MCD, then prime-facie the said undertaking is false and in such cases, the applicant is asked to submit an 'NOC' or 'BCC', in lieu thereof.

4. The CGRF-BYPL, in its order dated 27.05.2024, observed that the actual municipal number of the premises, i.e. third floor where the connection is applied for, is 539 and A-41 was the old number whereof. As per MCD's list, the subject premises



booked up to the third floor. Therefore, any connection, if granted, shall be in violation of the concerned rules/regulations. Plea of the Respondent for mismatch of address is no longer relevant. Regarding deficiency of the dispute at the site, neither the Respondent has pressed this issue nor anything on record in this respect. The Forum concluded merely because the connections have been released on the fourth floor, ipso facto cannot justify release to connection on the third floor, in the light of the MCD booking of the floor. The Forum dismissed the Appellant's complaint and directed that the connection applied for can be granted only upon producing NOC/BCC from the MCD against its booking.

5. Following the rejection of his application for release of a new connection, the Appellant filed an appeal dated 01.07.2024 before the Ombudsman reiterating the same facts as before the Forum. In addition, the Appellant's plea is that the Delhi Jal Board has already released water connections in the building. When the Delhi Jal Board had no objection to releasing water connections, then why does the Discom not release the electricity connection? Over and above, the Respondent had already released two connections on the fourth floor. The Appellant placed all the relevant documents with the appeal. Further, in the MCD's list, half the address was shown, but till date, MCD has not taken any action against it. The Appellant submitted that he met A.E of MCD, who informed him that if MCD booked any property then they would take demolition action. MCD has neither issued any notice to him nor taken action against it in this regard. Furthermore, the colony is an unauthorized area and MCD does not issue NOC/BCC for unauthorized colonies. In support to his contention, the Appellant referred to the Supreme Court's judgement in the matter of Dilip vs. Satish in case no. SCC 810 dated 13.05.2022 stating as under:-

*It is now well settled proposition of law that electricity is a basic amenity of which a person cannot be deprived. Electricity cannot be declined to a tenant on the ground of failure/refusal of the landlord to issue no objection certificate. All that the electricity supply authority is required to examine whether the applicant for electricity connection is in occupation of the premises in question.*

*It is however made clear that electricity supply granted, shall not be discontinued, subject to compliance by the Respondents of the terms and conditions of supply of electricity by the electricity department including payment of charges for the same.*

The Appellant prayed as under:

- i. All the electricity connections released on the basis of fraudulent NOC/BCC issued by the MCD should be disconnected. Otherwise, they



release a new connection to him also. If, in the future, MCD takes any type of action, he will surrender the electricity connection.

- ii. If possible, please call A.E. MCD and Business Manager of Discom along with all the records of meters released so far.

6. The Discom's response is the same as submitted before the CGRF. Regarding the release of two electricity connections at the fourth floor of the building, the Discom submitted that these were granted in terms of the observations made in the meeting held on 16.06.2023, under the Chairmanship of Member, DERC. The meeting was attended by officials of various departments, viz; DERC, DDA, MCD, Delhi Fire Service and Discoms, for discussing various challenges faced by the Discom/Consumers in cases inter alia pertaining to new electricity connections, particularly in MCD booked properties. After detailed discussions, it was concluded that in cases where part portion of the building is booked by the MCD, the electricity connection may be released for the portion that is not booked. The minutes of the meeting were also submitted with their written submission.

7. The appeal was admitted and fixed for hearing on 28.08.2024. During the hearing, the Appellant was represented by his authorized representative and the Respondent was represented by its authorized representatives/Advocate. An opportunity was given to both the parties to plead their respective cases at length.

8. During the course of hearing, the Authorized Representative (AR) for the Appellant reiterated all the allegations as in the appeal as well as the relief sought. The AR submitted that while the AE of the MCD was categorical that NOC is not issued for unauthorized colonies, despite booking of the three floors in subject building, two connections were released on the fourth floor to his detriment. The Appellant could not give any satisfactory response to a query about the reason for purchasing the fourth floor during December-2023, when the fact of booking of building till third floor was already on record during April-2023. It was informed to the Appellant that due diligence could have been taken before purchase of that floor.

9. In rebuttal, Advocate for Respondent, stated that in terms of the Minutes of the Meeting, held on 16.06.2023 in DERC, the connections at the fourth floor were released since the same was not booked. However, due to contradictions, this practice was no longer in force. In the instant matter, therefore, the connection can only be released upon submission of BCC or NOC from the MCD. As far as Appellant's concern on non-provision of NOC by the MCD in unauthorized colonies, the officer of the Respondent submitted that numerous connections have already been released on the basis of NOC from the MCD, hence, the Appellant may also obtain it



from the MCD by removing unauthorized construction. The Advocate, however, conceded that release of the connections on the fourth floor *per se* cannot be considered logical since the other below floors stand booked for unauthorized construction. The Advocate had no answer to a query that in case any action of demolition against booked building till third floor is to be undertaken by the MCD then what is the repercussion of the same for the fourth floor. Attention was invited by the Ombudsman to the content of the Minutes of Meeting which simply stated that the connection "may be" released for the portion which is not booked and the word "shall" was not contained in the guidelines which mandated release of connection. Therefore, proper application of mind was required in every case while releasing the connections.

It was clarified to the Appellant that any action for removal of the premises from the MCD booking does not fall within the jurisdiction of the Electricity Ombudsman. MCD was the competent authority to approach in this regard.

10. Having taken all factors, written submissions and arguments into consideration, the following aspects emerge:

- a) As the premises stand identified beyond doubt on the basis of site visit on 11.03.2024, and is booked by MCD, vide its letter dated 21.04.2023 (539) stating u/c at GF/FF/SF and TF. In view of this, connection cannot be released, in the absence of BCC or NOC from MCD.
- b) The Discom claims that the release of connection on Fourth Floor of the building with no MCD booking is in conformity with the decision taken on 16.06.2023 during a meeting with various agencies by DERC. There is no evidence produced by the Discom to substantiate that the fourth floor existed on the date of MCD Booking. In the absence of any clarification sought by the Discom from the MCD, a presumption arises that the fourth floor was not existing on 19.04.2023 and it was apparently constructed after MCD booking (up to third floor) and, therefore, also becomes an unauthorized construction.
- c) The order of Delhi High Court dated 20.12.2017 in WP(C) 11236 of 2017 needs compliance by all concerned authorities. As such, in view of this order in Parivartan Foundation vs. SDMC and Others, connection can only be released subject to submission of NOC/BCC from MCD.




- d) Hon'ble Delhi High Court in its decision dated 06.02.2020 in Ms. Azra vs. The State (G.N.C.T. of Delhi) – WP(C) 2453/2019 held that merely because some of the occupants of the building have been wrongly given an electricity connection, it cannot be a ground for the Court to direct the Respondents to further compound the wrong act and direct grant of new connection to the premises of the petitioner.
- e) The stand taken by the Discom that they had relied on the Minutes of the Meeting dated 16.06.2023 held in the Delhi Electricity Regulatory Commission, wherein it was decided that in case the part building is not declared unauthorized, the connection may be released. In this case, as per Discom, the fourth floor is not unauthorized, they released the connection. Yet, it is strange as in a building which has been declared unauthorized up to third floor, how can fourth floor be authorized. Minutes of the DERC meeting cannot be used to validate unauthorized constructions carried out.

11. In the light of the above, this court directs as under:

- I. The request for release of connection in the appeal has no merit and the order of CGRF is upheld.
- II. CEO may order an enquiry to ascertain the circumstances, under which two connections were released on the Fourth Floor, during December, 2023. In case the construction of the fourth floor was undertaken after MCD booking on 19.04.2023 and also in the absence of any MCD NOC or BCC, the fourth floor also fall in the category of unauthorized construction. Therefore, appropriate action in respect of the two connections be taken in the light of the directions of the Delhi High Court in Parivartan case.
- III. Action taken report may be submitted within four weeks of receipt of this order.

The case is disposed off accordingly.

  
(P.K. Bhardwaj)  
Electricity Ombudsman  
29.08.2024