

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: 011-41009285 E.Mail elect_ombudsman@yahoo.com)

(Against the CGRF-BRPL's orders dated 03.12.2024 & 14.01.2025 in CG-90/2024 and Review Application respectively)

IN THE MATTER OF

Shri Naeemuddin

Vs.

BSES Rajdhani Power Limited

Present:

Appellant: Shri Kashif Athar & Others, Advocates, on behalf of the
Appellant

Respondent: Shri Sudarshan Bhattacharjee, Senior Manager, Shri Gaje
Singh, Officer and Shri Shreyek Gupta, Advocate, on behalf of
BRPL.

Date of Hearing: 28.05.2025

Date of Order: 29.05.2025

ORDER

1. Appeal No. 18/2025 dated 07.04.2025 has been filed by Shri Naeemuddin, R/o I-52, Fourth Floor, Khasra No. 251, 257, Abul Fazal Enclave, Part – 1, Jamia Nagar, Okhla, New Delhi – 110025, through his advocate Shri Kashif Athar, against the Consumer Grievance Redressal Forum – Rajdhani Power Limited (CGRF-BRPL)'s orders dated 03.12.2024 & 14.01.2025 in CG No. – 90/2024 & Review Petition respectively.

2. The background of the case is that the Appellant as an owner of the above cited address had applied for a domestic connection vide Application No. 008007170388. The same was rejected by the Discom on account of (i) building height being more than 15 meters, (ii) pending enforcement dues, (iii) wiring test report (iv) fire clearance certificate, and (v) MCD's No Objection Certificate, vide their deficiency letter dated 09.09.2024. Against the rejection, the Appellant approached the Forum and stated that he had purchased the property of 100 sq. yards consisting of 3 bed-rooms, 1 drawing room, 1



kitchen, 2 toilets and bathrooms, one car parking space on ground floor through notarized documents from one Shri Raisuddin S/o Shri Abdul Aziz & Shri Mohd. Nadeem S/o Shri Abdul Aziz on 12.06.2010, viz; General Power of Attorney, Agreement to Sell, Affidavit, receipts for payment of Rs.6.50 lakhs, will and possession letter during the same date, which were taken on record by the Forum. The Appellant further submitted that despite the building height being within the permissible limit, his request was declined with the reason that the building is mixed-use in nature having a doctor clinic on the ground floor. He further claimed that the enforcement dues stood settled before the Lok Adalat on 09.04.2024 with payment of Rs.30,900/-. The Appellant also contended that the building is residential one as the clinic is not part of the structure in question. One connection on the fourth floor bearing CA No. 150411590 was disconnected on 17.11.2022 on account of non-payment of dues and subsequently dues were paid on 16.08.2023. Furthermore, applied building is a residential building with stilt parking at ground floor plus four floors, having a 10 x 10' room on the terrace of the forth floor. As per the Master Plan for Delhi (MPD) and Building Bye-laws policies for Residential Buildings, 'the doctor clinic falls under the category of "non-residential activity in Residential premises" and DERC' Supply Code, 2017, also allows 5 Kw commercial connection in residential building. Accordingly, the Appellant made a request before the Forum (a) to direct the Discom to correct the classification of the building (b) to release of the applied connection in accordance with the DERC's regulations and MPD Guidelines for residential building.

3. The Discom stand before the Forum was that as per site visit report dated 08.09.2024, there was a doctor clinic on the ground floor in the building which had a structure from ground floor to fifth floor and in the light of the Minutes of the Meeting dated 13.06.2023 held in the DERC, the building was considered 'other than residential building' with height more than 15 meters without stilt parking, therefore, fire safety certificate from the Fire Service Department is required for releasing the connection.

4. The CGRF-BRPL, in its order dated 03.12.2024 considered that a connection bearing CA No. 150411590 at the applied floor existed since 2011, but due to pending outstanding dues, was disconnected on 17.11.2022. The applied premises had a room on the top floor measuring 10' x 10', and, therefore, the building was ground floor plus five floors. Since the connection of the doctor's clinic was in the adjacent building, i.e. I-52B, could not be taken into consideration, therefore, the building was residential and not a mixed-use building. However, having regard to the applied floor with construction over it, the height of the building exceeded 15 meters, and, therefore, the benefit of 6th Amendment dated 15.04.2021 was not available/applicable and connection could not be released.



5. Against the above said order, the Appellant filed a review petition via e-mail dated 16.12.2024, which was withdrawn by him due to deficiency in supporting documents, viz MCD's empanelled Architect's Certificate regarding applied building's height/any construction drawing (shown height of the individual floor). The Forum vide its order dated 14.01.2025, without considering the merits of the application allowed the applicant to withdraw his review application.

6. The Appellant, dissatisfied by the order dated 03.12.2024 & 14.01.2025, passed by CGRF-BRPL, has filed this appeal and asserted that all the deficiencies pointed out by the Discom had been removed. He also enclosed with the appeal an Architect's certificate dated 23.01.2025 confirming that the height of the applied for connection for fourth floor is 15.38 meters, i.e. only 0.38 meters more than the permissible limit. Since the construction of the building is old one (15 years old), application of the guidelines issued in 2021 was a simple harassment caused to him since no retrospective affect could be given to the guidelines. The Appellant request that since the CGRF has already considered the building as "residential" instead of "mixed-use", therefore, it was requested to direct the Discom to release the applied for connection without any delay

7. The Discom, in its written submission dated 08.05.2025 has categorically stated that the Appellant had applied for a connection during 2024, and, therefore, the prevailing guidelines/laws were attracted in the case. It has also been submitting that the CGRF rightly rejected the case since the height of the subject building is 15.38 meters i.e. 0.38 meters more than the permissible norms. Moreover, the connection had been applied in 2024, and, therefore, the stand taken by the Appellant is incorrect and of no consequence.

8. The appeal was admitted and fixed for hearing on 28.05.2025. During the hearing, both the parties were represented by their authorized representatives/advocate. An opportunity was given to both the parties to plead their respective cases at length and relevant questions were asked by the Ombudsman and Advisor (Law), to elicit more information on the issue.

9. During the hearing, the Advocate appearing for the Appellant reiterated his contention as in the appeal. The Advocate asserted that the building is 15 years old and the earlier electricity connection which existed at the applied fourth floor had got disconnected due to non-payment of the outstanding dues. However, the said dues were settled before the Permanent Lok Adalat. He further asserted that the building with stilt parking was within the height of 17.5 meters, which required release of connection, in the light of Sixth Amendment Order 2021 of DERC but the Discom did not allow release of the requisite connection on account of its stand before the CGRF about mixed-use nature due to existence of a shop on the ground floor. The CGRF disallowed the stand by the Discom about mixed-use nature of the building and considered the building as a residential building

L.

but without stilt parking. Since the height of the building was beyond the permissible limit of 15 meters, the necessity for fire clearance certificate was insisted for release of the requisite connection. Moreover, the review petition had already been withdrawn by the Appellant before the CGRF due to lack of supporting document namely, architect certificate which was obtained by him at a later stage. In support of his contention, the advocate submitted a hand-written sketch of the various floors mentioning the height of each floor including the applied floor. The same was taken on record.

10. In rebuttal, the Respondent reiterated its written submission. The Respondent stated that the architect certificate was not produced and formed a part of record before the CGRF and, therefore, could not be relied upon. For the first time the architect certificate dated 23.01.2025 was enclosed with the appeal for consideration. The architect certificate itself mentions the height of the building from ground floor upto the applied fourth floor as 15.38 meters but excluded 70% (approx.) of the built up area on the top floor i.e. fifth floor. Further, finding of the CGRF about non-existence of the stilt parking had not been challenged in the appeal. In response to a query by the Ombudsman taking into account the architect certificate, both the advocates agreed the total height of the building was more than 18 meters, even if stilt parking was presumed to exist..

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

- (i) The Architect's Certificate on record states height of ground, first, second, third and fourth floor is 15.38 meters from road level excluding 70% (approx.) of built-up area on top floor (5th floor). The height of the building, i.e. 15.38M (given by Architect) doesn't include the construction on the fifth floor. There is also no reference to any stilt parking.
- (ii) On the date of application in 2024, the height of the building without stilt parking being in excess of total criteria of 15 meters laid down, it requires Fire Department's 'NOC' for release of connection, as per the laid down norms. The building being 15 years old, has no relevance, since compliance with the existing laws becomes a pre-condition.
- (iii) No material has been placed on record to prove that the premises contained a stilt parking. The benefit of 17.5 meters under the guidelines, is, therefore, not admissible.
- (iv) It is clear that on the ground floor there is parking as shown in pictures of FE Report and same has been shown in Agreement to Sell and all other documents dated 12.06.2010, with car/two wheeler parking space on ground floor of said property. Considering ground floor as car parking and assuming



three (3) meters height of each floor, including one room at fourth floor's roof, it becomes in excess of 15 meters for the applied floor and total height being more than 17.5 meters.


(v) It is not in a dispute that the height of the building is beyond 18 meters, even if, stilt parking is presumed to exist.

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

- (i) The order passed by the CGRF-BRPL is up-held.
- (ii) Since the height of the building including the construction on the top floor with 10 x 10' room is more than 15 meters, as also verified by the Discom during the site inspection, 'Fire Clearance Certificate' from the Delhi Fire Service Department is required for releasing the connection applied for. All residents in the building may also be issued appropriate notices for obtaining the required fire clearance. Upon production of the certificate, the connection applied for be released, after completion of the other commercial formalities, within a week.

13. This order of settlement of grievance in the appeal shall be complied within 15 days of the receipt of the certified copy or from the date it is uploaded on the website of this Court, whichever is earlier. The parties are informed that this order is final and binding, as per Regulation 65 of DERC's Notification dated 24.06.2024.

The case is disposed off accordingly.


(P.K. Bhardwaj)
Electricity Ombudsman
29.05.2025