

OFFICE OF ELECTRICITY OMBUDSMAN

(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act of 2003)

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Appeal No. 21/2024

(Against the CGRF-BRPL's Order dated 01.07.2024 in CG No. 16/2024)

IN THE MATTER OF

Smt. Karuna Jain

Vs.

BSES Rajdhani Power Limited

Present:

Appellant: Shri Ram Lal Jain, Authorized Representative,
Shri Rajeev Jain, Spouse of the Appellant and Shri Sanjeev Jain

Respondent: Shri Shreyek Gupta, Advocate on behalf of BSES-BRPL

Date of Hearing: 23.10.2024

Date of Order: 24.10.2024

ORDER

1. Appeal No. 21/2024 dated 29.07.2024 has been filed by Smt. Karuna Jain, through her authorized representative, Shri R.L. Jain (Father-in-Law of the Appellant). R/o WZ-179, Gali No. 2, Meenakshi Garden, Tilak Nagar, New Delhi - 110018, , against the Consumer Grievance Redressal Forum – Rajdhani Power Limited (CGRF-BRPL)'s order dated 01.07.2024 in CG. No.16/2024.

2. The background of the case is that the Appellant had made a request for release of a non-domestic electricity connection of 1 KW vide Application No. 8006733291 on 05.01.2024 at the ground floor shop of the premises bearing No. A-1/48, Sewak Park, Khasra No. 14/2, Village Kakrola, Uttam Nagar, Delhi – 110059 in her name. The Discom vide its communication dated 16.01.2024 sent a 'deficiency letter' enumerating thirteen (13) deficiencies which included (i) DPCC certificate for the vacant hall, (ii) fire clearance certificate on account of height of the building being



more than 15 meters, (iii) despite unified commercial premises, ownership documents of only 210 sq. yds were submitted, (iv) MCD's 'NOC' and 'completion certificate', (v) mis-match of address, (vi) test report of electrical contractor, (vii) premises wiring incomplete and (viii) space for sub-station installation etc.. The Appellant sent a reply vide her letter dated 18.01.2024, to which the Discom reiterated ten deficiencies vide letter dated 05.02.2024. Thereafter, the complainant approached the CGRF on 19.03.2024.

3. In their response dated 29.04.2024, the Discom referred to the various deficiencies based on site visit on 16.01.2024 and communicated to the complainant vide notice dated 16.01.2024. The correspondence of the Discom with the complaint was also placed before the CGRF. Subsequently, as per directions of Forum, a site visit report dated 06.05.2024 along with videography of the site was placed before the CGRF to emphasize that the building height was 17.57 meters from road level. The building included the basement, ground to third floor and one hall above the third floor. The Discom vide its communication dated 14.05.2024, also placed on record a copy of the letter dated 15.12.1990 received from Urban Improvement Department, Delhi Administration, mentioning a list of 48 regularized colonies, including Sewak Park (S. No. 5). However, the complainant vide her communication dated 15.05.2024 and 23.05.2024, mentioned that the area of Sewak Park Extension (where the building is supposedly situated) falls at Sl. No. 555 in the list of 1737 unauthorized colonies.

4. The CGRF as well as the Discom placed reliance on General Power of Attorney submitted by the Appellant to assert that the premises was purchased for residential purposes and measures 210 sq. yards, whereas, the applied connection at ground floor, during the course of inspection on 06.05.2024 was found to be 420 sq. yards. It was reiterated by the Appellant before the CGRF that her premises falls in Sewak Park Extension, which is an unauthorized colony and mentioned on Serial No. 555 in the list of 1731 unauthorized colonies. However, the Discom relying upon a communication issued by the Urban Improvement Department, Delhi, in 1990 emphasized that Sewak Park had already been regularized. Further, during the course of site inspection on 06.05.2024, the Discom found that the total height of the building is 17.57 meters from the ground floor including the open hall on the third floor. It was also the case of the Appellant that reliance by the Discom on the pending writ petition 7560 of 2017 filed by Shri Sanjiv Jain 2017 before the High Court of Delhi, in respect of de-sealing of the property, had no bearing on the release of her applied connection.



5. The CGRF in its order dated 01.07.2024 considered the entire material on record and concluded that since the entire building is constructed for commercial purpose and height of the building is 17.57 meters, the requirement of fire clearance certificate from Delhi Fire Services is necessary. Pending rectification of the noted deficiencies, it was held that the applied connection at this stage cannot be released.

6. In her appeal dated 29.07.2024 before this Court, the Appellant has challenged the orders passed by the CGRF-BRPL on the following grounds:

- (a) Applied connection is for non-domestic use, commercial activity is not prohibited by Government of Delhi or MCD.
- (b) Registration of property under Prime Minister Uday Scheme is allowed only in unauthorized colonies not regularized by the Government. Sewak Park Extension is at Sl. No. 555 in 1731 unauthorized colonies.
- (c) The height of the applied premises (GF, FF, SF & TF) is 14.63 meters as certified by the Architect.
- (d) Entry to the applied portion is totally separate from other portion.
- (e) Since the height is below 15 meters, no fire clearance is required.
- (f) The Appellant is willing to provide undertaking for enhancement of sanctioned load and against misuse of connection/extension to other floors.

The Appellant has, therefore, prayed to set-aside the orders passed by the CGRF-BRPL and to issue directions for release of the applied connection.

7. The Discom in its reply dated 28.08.2024 reiterated its submissions as before the CGRF-BRPL, highlighting the deficiencies found during inspection on 16.01.2024, the need for fire clearance, building being a construction as a single unit, found partially demolished by MCD and pendency of de-sealing matter filed by Shri Sanjeev Jain before Delhi High Court. It is an admitted fact that Plot No. A-1/51 of Shri Sanjeev Jain and Plot No. A-1/48 of the Appellant has been jointly constructed with a single basement. Regarding the height of the building it was mentioned that during the site inspection on 06.05.2024, the height was found to be 17.57 meters, and, therefore, the Architect's report mentioning height as 14.788 meters is summarily rejected. Having regard to the height of 17.57 meters and the area being a regularized colony, fire clearance certificate and No Objection Certificate/Building Completion Certificates are required.



8. The appeal was admitted and fixed for hearing on 23.10.2024. During the hearing, the Appellant was represented by Shri Ram Lal Jain, as Authorized Representative and the Respondent was represented by the Advocate. An opportunity was given to both the parties to plead their respective cases at length. Relevant questions were also asked by the Ombudsman as well as the Advisors.

9. During the hearing, the Appellant reiterated the fact about the application for connection made on 05.01.2024 and confirmed that a deficiency letter containing thirteen points had been appropriately addressed. Subsequently, another deficiency letter with ten points was also responded to in the due course. It was claimed that Sewak Park is an unauthorized colony, as certified by the local MLA in 2024. Steps have been taken to register the property under the PM Uday Yojana Scheme. Regarding the clearance from DPCC/MCD Trade License, the Advisor (Engineering) highlighted the DERC's Supply Code, 2017 guidelines and MOM No. ADC/IL/SDMC/2017/SK/D-2132 dated 06.11.2023, which states that no Trade License is necessary for connections below 5 KW in non-conforming areas. The Appellant also referred to Architect Certificate dated 27.07.2024, based on an inspection conducted on the same day, which indicated that the building's height was 14.63 meters. It was acknowledged that the structure comprises A-1/48 and A-1/51 was common, however, due to the partition between the properties, they could not be treated as a single entity. There is no connection between the two properties. A-1/51 is adjacent to the Appellant's property A-1/48.

10. In rebuttal, the Advocate for the Respondent stated that a request for a single connection was made by Shri Sanjeev Jain, the owner of A-1/51, in 2019. This request was denied due to the building's height exceeding the permissible limit. Nevertheless, the Architect Certificate mentions that the structure comprises Ground Floor plus three additional floors, without any reference to basement. Furthermore, it was noted that during a joint inspection conducted on 06.05.2024, as per the directive of the CGRF, the height was determined to exceed 17.5 meters, which included the open hall on the fourth floor that was not mentioned in the Architect Certificate. The two properties share a common shutter access. The Appellant tried to justify the premises by mentioning two portions, i.e., A-1/48 and A-1/48-A. The factum of existence of A-1/48A was not included in any of the submissions made at any time either before the CGRF or the Ombudsman. This submission emerged for the first time during the hearing, without any supporting documentation. The Ombudsman's query regarding the rationale behind requesting only one connection for the 210 square yard portion, rather than for the entire 420 square yard area, was not answered satisfactorily. The reason for non-mentioning of A-1/48A in the application remained unanswered. It is a clear case of mis-representation. The aspect of



proposed letting out of the premises, as mentioned by the AR of the Appellant during the hearing, does not answer the concealment of the fact of existence of A-1/48 & A-1/48 A, as claimed.

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

- i) The area of the applied connection for the shop located on the ground floor is 420 sq. yards, as per the site inspection conducted on 06.05.2024.
- ii) Sewak Park colony was regularized in December 1990, however, according to the Appellant, Sewak Park Extension is classified as an unauthorized colony, listed at Sl. No. 555 among 1,731 unauthorized colonies, yet there is no official government order to support this claim. Even copies of electricity bills enclosed by Discom refer to premises A-1/51, as Sewak Park not Sewak Park Extension.
- iii) It is clear that the connection was applied at Plot No. A-1/48, ground floor, Block A-1, Khasra No. 14/2, Kakrola, Sewak Park, even the house tax payment slips shows property in Sewak Park. No document establishes that the property falls in Sewak Park Extension (unauthorized colony). Therefore, without clearance from Delhi Fire Services clearance, connection can not be released.
- iv) In case the Colony as claimed by the Appellant is unauthorized, the construction also becomes unauthorized.
- v) Test Report and wiring report is required as per law.
- vi) The Appellant claims that the building height as 14.78 meters on the basis of Architect's certificate. However, measurements taken during the Site Inspection reveal a height of 17.57 meters, which includes the hall on the third floor. The Architect Certificate is silent in respect of hall. There is no clarity on the portion falling in A-1/48 and A-1/48A, as claimed by the Appellant during the hearing.
- vii) There is no material adduced by the Appellant to prove that the process for registration of her property under PM Uday Scheme has been completed.



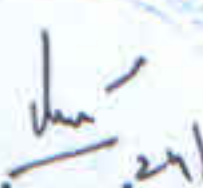
viii) The validity of the existing connections at property No. A-1/51, Sewak Park released on 18.09.2009 and 27.11.2016 needs to be examined in the light of the decision in Parivartan Case.

12. In the light of the above analysis, the decision of the CGRF-BRPL is up-held and connection applied for cannot be released. Court further directs that Appellant has to apply afresh for the new connection with complete picture of the property with all supporting documents for release of the connection.

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 hereby informed and cautioned that the Order of Settlement of Grievance raised in the appeal is, as per Regulation 65 of DERC's Notification dated 24.06.2024, final and binding on the parties.

The case is disposed off accordingly.


(P.K. Bhardwaj)
Electricity Ombudsman
24.10.2024