

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. 21/2025

(Against the CGRF-BYPL's order dated 09.04.2025 in Complaint No. 619/2024)

IN THE MATTER OF

Shri Hitesh Kumar Poptani

Vs.

BSES Yamuna Power Limited

Present:

Appellant: Shri Rakesh Sharma, Authorized Representative along with
Shri Kshitiz Mahipal, Advocate, on behalf of the Appellant.

Respondent: Ms. Chavvi Rani, Legal Retainer and Shri Akash Swami,
Advocate, on behalf of BYPL

Date of Hearing: 09.07.2025

Date of Order: 10.07.2025

ORDER

1. Appeal No. 21/2025 dated 23.04.2025 has been filed by Shri Hitesh Kumar Poptani, R/o 78/1, First Floor, Gali No. 23, Govind Park, Krishan Nagar, Delhi - 110031, through authorized representative, Shri Rakesh Sharma who appointed Advocate Shri Kshitiz mahipal, to represent the case, against the Consumer Grievance Redressal Forum – Yamuna Power Limited (CGRF-BYPL)'s order dated 09.04.2025 in Complaint No. 619/2024.

2. The background of the case is that the Appellant had applied for a new electricity connection at building bearing No. 610/2 (Old), New No. IZ/6421, Third Floor, Mukherjee Gali, Gandhi Nagar, Delhi – 110031, vide application no. 8007225495. The Discom rejected his application on the ground that *"Fire Safety Clearance Required for Building Height more than 15 Meters or having Ground plus Four Floors including a mezzanine*

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floor (Business Building), BYPL pole found encroached upon by the applicant (1. Ground + 5 Commercial Building (building height) more than 15m, BCC required 2. Pole encroachment), vide their letter dated 04.10.2024.

3. Being not satisfied with the order of the Discom, the Appellant filed a complaint before the CGRF-BYPL contending that all the floors of the building have connections in question except for his third floor. The Discom has released about 15-20 electricity connections, including connection CA No. 154043351, which was energized on 30.01.2023 on the fourth floor of the same building. Regarding the alleged electricity pole, the Appellant asserted that the height of the pole is upto the first floor, even then the Discom has granted electricity connections at the first floor. Despite completion of all commercial formalities, the Discom deliberately not releasing the connection without considering the fact that as per the Central Electricity Act's safety rules, the third floor maintains a safe distance both vertically and horizontally. To support his claim regarding the height of the applied building, the Appellant submitted an Architect Certificate dated 06.02.2025, which clearly mentioned the height of the building is less than 15 meters, therefore, Fire Department 'NOC' is not required.

4. The Discom's submission before the Forum was that upon site inspection carried out on 03.10.2024, the applied connection was rejected vide their letter dated 10.04.2024, duly mentioning therein that "fire safety clearance required due to the building height more than 15 meters, having ground plus four floors, a mezzanine floor (business buildings) and BYPL's pole was found to be encroached upon by the applicant. Consequently, in accordance with Rule 27 of the Delhi Fire Rules, 2010, in conjunction with Regulation 61 of the Central Electricity Act, 2010 and provisions of Chapter 2, Regulation 5 of DERC's Supply Code, 2017, the connection could not be granted to the Appellant. The Discom also considered the matter of M/s Azra Vs. State of NCT of Delhi – WP(C) 453/2019. With regard to the alleged connection bearing CA No. 154043351 released on 30.01.2023, the Discom submitted that this connection was released on 20.04.1963 in erstwhile the Delhi Vidyut Board's period with a CA No. 100822680 and was updated on the applicant's request for a name change on 30.01.2023 with a new CA No., i.e. 154043351. Furthermore, as directed by the Forum, a site inspection was carried out on 07.04.2025. The inspection revealed that the building, having an area of 240 sq yards, consists of a Basement + Ground Floor + First to Fifth Floors, along with various existing shops. On the third floor, the Appellant was using electricity supply from Meter No. 70105146, which was energized on 03.09.2005 in the name of Shri Kishan Lal, and the height of the building was 18.50 meters. The inspection report along with details of all the 28 connections was placed before the Forum, which was taken on record.

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5. The CGRF-BYPL, in its order dated 09.04.2025 considered that the building structure, for which the complainant had applied for a new connection consists of a basement + ground + five floors over it. The building is entirely mercantile, and according to the Discom's Site Visit Report, its height measured 18.50 meters, which is more than 9 meters. As per the Delhi Fire Service Rules, this requires 'fire clearance certificate' being a mercantile building. The complainant produced an Architect Certificate showing the height of the building up to the fourth floor as 15 (fifteen) meters. However, this Architect Certificate cannot be considered valid, since the building is mercantile and height is more than 9 (nine) meters, likely to cause a risk of fire, therefore, requiring a fire 'NOC' in accordance with the DFS regulations.

With regard to the second objection raised by the Discom in respect of pole encroachment, the complainant asserts that the pole is not fully encroached. He states that the height of the pole is equivalent of the first floor of the building, and that the Discom has already released three electricity connections from this pole to the premises in question. Further, the Discom, has failed to place any clear and relevant documents to substantiate its claim, nor has it provided details of the connections that have been energized from the said pole to the premises, in question. Therefore, this objection of the Discom cannot be deemed reliable.

The Forum directed the complainant to submit a Fire Clearance Certificate to obtain a new electricity connection, as the building height more than 9 meters. According to the Delhi Fire Services' regulations for mercantile buildings, the height of the building should not be more than 9 meters. Therefore, it is mandatory to submit the fire certificate. The other objections raised by the Discom have been nullified.

6. The Appellant, aggrieved by the above cited order, has filed this appeal, reiterating the facts placed before the CGRF-BYPL. In addition, the Appellant submitted that the Forum has not considered the fact that the height of the building, in question, is less than 15 meters, thus, there is no requirement of 'NOC/Fire Safety Clearance. In fact, there are already 15-20 electricity connections granted on all floors, including those floors which are above the applied premises in the same building by the Discom. Further, a new connection bearing CA No. 154043351 was installed on 30.01.2023 on the fourth floor of the same building. The Forum has also not considered the Minutes of the Meeting held on 16.06.2023, in the DERC, along with officials from various departments, where it was decided that Discoms would release connections to all buildings, other than residential building, without requiring a 'NOC' from the Fire Department for buildings upto 15 meters in height.

The Appellant has prayed following:

- (a) To set-aside the CGRF-BYPL's order dated 09.04.2025
- (b) To direct the Discom to release the electricity connection applied for.
- (c) To award compensation on account of mental harassment.

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7. The Discom, in its written submission dated 26.05.2025 to the appeal, reiterated the facts as placed before the CGRF-BYPL. In addition, the Discom submitted that due to a commercial nature of the building/premises, in question, the connection sought is also non-domestic. The building consists of Ground plus five floors (a commercial building) having a total number of 28 shops on different floors, with the height of the building 18.50 meters. Consequently, the entire nature of the building is commercial, and the same is governed by Sub-Rule 7 of Rule 27 of the Delhi Fire Services Rules, 2010. Therefore, the relaxation of the sixth amendment would not come to the rescue of the Appellant and requires Fire NOC. The Discom further referred to the Ombudsman's order dated 23.10.2024 passed in Appeal No. 24/2024 in the matter of Shri Subhash Vs. BYPL.

On perusal of the above written submission, the bill copies of all the twenty eight connections were obtained from the Discom and placed on the record.

8. However, the Discom did not clarify on what basis a number for connections were released for the same building, being the height of the building above 15 meters.

9. The appeal was admitted and fixed for hearing on 09.07.2025. During the hearing, both the parties were represented by their authorized representative/ advocate. An opportunity was given to both the parties to plead their respective cases at length and relevant questions were asked by the Ombudsman, Advisor and Secretary.

10. During the course of hearing, the Advocate appearing for the Appellant reiterated the contentions and prayer as in the appeal. He asserted that except his premises, all the individuals of the building are enjoying electricity. On what basis alleged connections were granted to others by ignoring the prevailing rules and regulations while he was denied deliberately which caused undue harassment to him. As far as releasing of connections to other individuals in the building, he placed reliance upon a judgement in the matter of Azra vs. State of GNCT & others is not adequate. Strict action must be taken by the Respondent in this regard. In response to a query, he admitted that the building is having fifth floor in the shape of tin shed. Advocate further asserted that the CGRF, in its order, partially allowed his prayer by nullifying the objection on the pole encroachment but also considered the height of building as 9 meters under the Mercantile Building instead of 15 meters' criteria, as mentioned by the Respondent in its deficiency letter. In this regard, attention was invited by the Advocate to the point 4 (1) of the Minutes of Meeting (MOM) dated 16.06.2023 held among the various govt. departments in the O/o DERC wherein the issue of height was discussed, in detail. He contended that as per the said MOM, if the dwelling units are within the height of 15 meters without stilt parking, the electricity connection could be released without insisting of Fire Clearance Certificate. Hence, he pressed upon the argument that the applied building, having dwelling units, within the height of 15 meters should taken into account besides 9 meters which necessitates Fire Clearance Certificate

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in the light of Rule 27 of Delhi Fire Service, 2010. The applied floor is within the permissible height of 15 meters; therefore, FCC is not necessary. Moreover, the Appellant is ready to give an undertaking as was allowed in similar other matters before the CGRF, if any, fire incidence happens, he will be responsible for the same and Discom will not responsible for it.

11. In rebuttal, the Advocate appearing for the Respondent reiterated its contentions as in the written submission. He emphasized that the CGRF has rightly observed the building structure is Mercantile in nature and the Rule 27 of Delhi Fire Service, 2010 is categorically applicable in the instant matter. As far as numerous connections exist in the building is concerned, Advocate relied upon some judgements which stated that a court cannot grant relief based on "negative equality" or parity. Moreover, the Supreme Court has mandated that all constructions must adhere to local building bye-laws, emphasizing the need for strict compliance with approved building plans and regulations to prevent unauthorized construction and ensure public safety. As far as the height of the building is concerned, admittedly, the building height is 18.5 meters as per latest site inspection report dated 07.04.2025. Therefore, the connection could only be granted upon submission of FCC subject to completion of other commercial formalities.

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

- (a) As per Architect Certificate submitted by the Appellant, the building is Ground Floor + First Floor + Second Floor + Third Floor + Fourth Floor and Fifth Floor and height upto fourth floor is less than 15 meters, he has not taken into account the height of the Fifth Floor. Further, from the seal appended by the Architect on the certificate, it appears that he is not an empanelled Architect.
- (b) As per Site Inspection report dated 07.04.2025 by the Discom, Ground floor has a 9 shops, first floor – 11 shops, second floor – 7 shops, basement - 1 shop, third & fourth floor – 240 sq. yards and fifth floor 200 sq. yards.
- (c) It is clear that all the 28 connections are of the non-domestic category.
- (d) As per Discom's Inspection Report dated 07.04.2025, total height upto fifth floor is 18.5 meters.
- (e) CGRF considered Rule 27 of Delhi Fire Service and while treating the building as mercantile with height more than 9 meters, directed applicant to obtain 'fire clearance certificate' for obtaining applied connection.
- (f) Since the building is commercial and the total height of the building is 18.5 meters upto fifth floor, therefore, DERC's MoM dated 16.06.2023, is not attracted in the instant case. Accordingly, his contention is not tenable.

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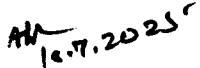
- (g) As per Rule 1.4.75(f) of in UBBL 2016 – any building or part of a building, which is used as shops, stores, market, for display and sale of merchandise either wholesale or retail. Office, storage and service facilities incidental to the sale of merchandise and located in the same building shall be included under in this group and thus comes under fire risk building covered under DFS Rule 27 (8) Mercantile.

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

- (i) 'Fire Clearance Certificate' from the Delhi Fire Service Department is required for releasing the applied connection. Accordingly, the order of the CGRF-BYPL's order is upheld.
- (ii) On furnishing 'Fire Clearance Certificate' by the Appellant from the Delhi Fire Service Department and completion of all commercial formalities, the Discom is directed to release the connection.
- (iii) Discom to review about the connections released in the building.

14. 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.


(Ali Zamin)
Electricity Ombudsman
10.07.2025