

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. 23/2020

(Against the CGRF-BYPL's order dated 25.09.2020 in Complaint No. 28/2020)

IN THE MATTER OF

SHRI SATYA NARAIN GUPTA

Vs.

BSES Yamuna Power Limited

Present:

Appellant: Shri N. K. Ray, Advocate on behalf of Shri Satya Narain Gupta, the Appellant

Respondent: Shri K. Jagatheesh, Sr. Manager, Shri Imran Siddiqi, Manager (Legal) and Ms. Ritu Gupta, Advocate, on behalf of BYPL

Date of Hearing: 01.02.2021

Date of Order: 17.02.2021

ORDER

1. The appeal No. 23/2020 has been filed by Shri Satya Narain Gupta through his advocate Shri Nishi Kant Ray, against the order of the Forum (CGRF-BYPL) dated 25.09.2020 passed in Complaint No. 28/2020. The issue concerned in the Appellant's grievance is regarding non-release of new electricity connections by the Discom (Respondent) in respect of his property bearing No. F-308, 4th Floor, Gali No.7, Pandav Nagar, Delhi - 110091, mainly on account of the fact that the height of the building is more than 15 meters.

2. In the instant appeal, the Appellant has stated that his property is a construction consisting of Ground, First, Second, Third and Fourth Floor respectively and the ground floor is being used as a stilt parking. So, as a matter of fact the building consists of a stilt parking and four floors. He applied for three new electricity connections on 27.11.2019 which were rejected by the Discom on



account of ELCB (Electric Leakage Circuit Breaker) not installed and building height being more than 15 meters without stilt parking, and therefore, as per the DERC's Guidelines, 'Fire Clearance Certificate' is required for releasing the said electricity connections.

The Appellant further submitted that all the flats in the building have already been provided with the electricity connections but the electricity connections to his flats have been refused by the Discom. He also approached the officials and officers of the Discom several times but as the electricity connections were not released by them, he filed a complaint with the CGRF-BYPL for redressal of his grievances.

The Appellant further submitted that after hearing the arguments, the CGRF dismissed his complaint on the pretext that since he is unable to fulfill the conditions as prescribed under the law, therefore the new electricity connections can only be released if the Appellant fulfills all the formalities as prescribed under the DDA Bye-laws, Master Plan of Delhi, 2021, Delhi Fire Services Regulations and DERC Notification, 2019. Being aggrieved by the rejection of his complaint by the CGRF, the Appellant has preferred the present appeal on the grounds that the CGRF has failed to consider that the said building is constructed with stilt parking according to the building sanctioned plan and there is lot of space left for parking of the vehicles. The Appellant however submitted that of course some shops have been built at the ground floor but the entry and exit space has been separately provided for the vehicles to enter and sufficient parking space has been left for the vehicles to be parked. Further, as the height of the building is 16.05 meter which is less than 17.5 meters and therefore his building falls under the category of the buildings having height less than 17.5 meters with stilt parking as per the DERC's Notification dated 01.09.2017, hence the new electricity connections cannot be denied to him. In view of above, the Appellant prayed that the order of the CGRF be set-aside and the Discom be directed to release the said electricity connections.

3. The Discom in its reply submitted that on receiving the request for new electricity connections, the site was visited by them and it was found that height of the building is more than 15 meters and accordingly the applications for new electricity connections were rejected. The Discom submitted that the Appellant applied for new electricity connections vide request No. 8004228110, 8004229797 and 8004229799 on 27.11.2019 on the fourth floor of F-308, Block - F, Pandav Nagar, Delhi -110091. The site was inspected and it was found that the height of the building is 16.15 meters and building is built upto ground plus four floors.



Moreover, there are shops on the ground floor instead of stilt parking. On the basis of site inspection, deficiency letter was issued to the Appellant with the reason that building height being more than 15 meters without stilt parking along with NX (Non Domestic) activity being carried out at the ground floor of the premises, therefore, as per the DERC guidelines 'Fire Clearance Certificate' is required.

As per the Discom, the issue before the CGRF in the said matter was that of height of the building, as to whether the Appellant was entitled to the benefit of relaxation given by DERC vide its notification dated 31.05.2019, whereby maximum height of the building wherein electricity connection can be granted without 'NOC' from the Fire Department is 15 meters in plots without stilt parking and 17.5 meters in plots with stilt parking. The CGRF after taking into consideration the entire record including the Joint Inspection Report dated 11.08.2020 and Architect's map filed by the Appellant on 04.09.2020, came to the conclusion that the building height is 16.15 meters with 7 shops at ground floor along with stilt parking. Further, as the stilt parking area was located behind the shops as such the Appellant was not entitled to the benefit as prescribed under the notification dated 31.05.2019 and hence disposed of the complaint. The order passed by the CGRF is a reasoned order and suffers with no infirmity and hence the present appeal is not maintainable.

4. It was also submitted by the Discom that the stilt parking has been provided behind the shops which is quite evident from the photographs taken at site and submitted with their written statement. Further, the Discom also denied that the shops are constructed on a different plot than the plot on which the flats are constructed. From the photographs and the site inspection it is apparent that the front portion under the flat on the ground floor is used for shops whereas the back portion is used for the so called stilt parking and hence the benefit of notification dated 31.05.2019 cannot be given to the Appellant. It is also denied that shops and flats are not on the same plot of land.

The Discom also submitted that the issue of height is very important and critical in view of the safety of life and property of the public at large as any overlooking/relaxation of the same would lead to catastrophe as happened in some of the recent cases in Delhi. The measurement of the height of the building, therefore, is a serious issue which has to be strictly adhered to in consonance with the provisions of the building bye-laws as applicable. The Appellant must act fairly as the lives of the occupants and public at large cannot be compromised for the sake of electricity connections in a building. As such the proper remedy



should be, that the Appellant must obtain 'Fire Clearance Certificate' so as to avoid any ambiguity on the serious issue of threat to life and property because of installation of the connections at a building which does not meet the requirement of height as per law.

In view of the above, the Discom finally submitted that there are no legal and factual infirmities in the order of the CGRF and the present appeal of the Appellant is liable to be dismissed as there is no merit in the case.

5. After going through the material on record and hearing the arguments of both the parties at length, the basic issue which emerges is that Discom refused to release the new electricity connections to the appellant basically on the ground that the height of the building is more than 15 meters and the Appellant has failed to produce the required 'Fire Clearance Certificate' from the Fire Department as per the extant regulations.

Given the above exposition and taking all the factors into account, it is worthwhile to mention here that for the purpose of seeking new electricity connections in high rise buildings, the Appellant has to complete all formalities and will have to abide by all the regulations required under the law keeping in view the safety requirements involving serious repercussion to the life and property of the public at large. However, the basic issue which needs to be decided in the case is whether the height of the said building and that of the ground floor conforms to the building bye-laws and other regulations for release of the electricity connections or not. In this context, it is important to pursue the clarification dated 31.05.2019 issued by DERC wherein it has been clarified that the measurement of the height of the building shall be made in accordance with Clause 1.4.16 and 7.19 of the Unified Building Bye-Laws of Delhi, 2016. The operative part of the direction/clarification issued as per the DERC letter No. F.17(85)/Engg./DERC 2016-17/5403 dated 31.05.2019 is quoted as under:

"Based on the above, it is clarified that the distribution licensee for release of electricity connection shall not insist for fire clearance certificate for the residential buildings having height upto 15 meters without stilt parking and 17.5 meters with stilt parking. The measurement of the height of the building shall be made in accordance with clause 1.4.16 and 7.19 of Unified Building Bye-Laws for Delhi 2016."

It is observed from the records available that the height of the building and that of the stilt parking was not mentioned in the architect map submitted by the Appellant during the hearing in the CGRF. The Appellant further could not submit the details regarding various heights of the building and the stilt parking even



though he was given another chance by the CGRF to submit the Architect's map showing these heights therein. Therefore, a joint inspection was carried out on 11.08.2020 as per the direction of the CGRF. As per the joint inspection report the building height of premises was found to be 16.15 meters and the building was having Ground plus four floors. In addition to above, 7 (Seven) shops were found existing in front of the building at Ground Floor along with parking in some portion of the premises. From the Architect's map submitted by the Appellant, it is quite evident that there are shops built in front of the building and the drive way & stilt parking are located behind the shops. Further, the stilt parking is not connected with the main street which is the essential requirement of the bye-laws.

6. In this context, in order to decide the issue of the ground floor being stilt parking or not, it is important to peruse the clause 7.15.1 of the Unified Building Bye-Laws of Delhi, 2016 in the first instance, which pertains to the Provision of Parking in stilt, Podium and Landscaping. The operative relevant part of the clause is quoted as under:

"In case a building is to be constructed on individual plot with stilt floor, a maximum 2.4m height at soffit level of beam and 2.7m height at soffit level of slab for providing parking space is permitted. In podium(s), maximum 2.4m height at soffit level of beam and 2.7m height at soffit level of slab for providing parking space can be constructed in continuation of the stilt floor having access for the parking without conflicting with the access requirement as per clause 3.7 and 8.2 from the plot line. The terrace of podium may be used for plantation, swimming pool, landscaping, other related structures and parking/entrance and exits as required."

From the perusal of the record, it is observed that a joint inspection was carried out as per the directions of the CGRF on 11.08.2020 in the presence of the representative of the Appellant and the height of the building was found to be 16.15 meters. On perusal of joint inspection report it is also observed that although it reveals the height of building but no details have been provided regarding the various heights and dimensions of the so called stilt parking, which are essentially required to ascertain whether the ground floor meets with the requirement of stilt parking as per the applicable building bye-laws or not. Keeping in view the same and in order to doubly ensure about the status of the ground floor being stilt parking or not, the Discom was asked to carry out the joint inspection of building again. The inspection of the site for measuring various heights of ground floor was carried out on 05.02.2021 and on perusal of the report which was not signed by the Appellant, it is observed that the height of the ground floor is 3.65 meters, and it was also reported that the parking area covers only



65% of the total area of the ground floor. The Discom also submitted that despite their request no one from the side of the Appellant was present at the time of measurement during joint inspection on 05.02.2021.

In view of the measurement of the height of building and that of ground floor carried out and further the perusal of the Clause 7.15.1 of UBBL of Delhi, 2016, it is held that ground floor cannot be treated as stilt parking. Also, it is evident from the two joint inspection reports and the submissions made in the foregoing paras that in the present case, these parameters are not getting fulfilled. Since the height of the building is more than 15 meters and as the ground floor also does not fulfill the criteria of stilt parking, therefore, the said building falls under the category of residential buildings having height more than 15 meters without stilt parking as per DERC's Notification dated 31.05.2019. Hence, the electricity connections to the building can only be released after the production of requisite 'Fire Clearance Certificate' from the Fire Department.

In addition to above, some other arguments as raised by the Appellant regarding release of electricity connections, has no basis and are misconceived, since the issue of release of electricity connections cannot be decided on any other basis other than the DERC Regulations taken along with the existing building bye-laws of Delhi. In view of above, the said applications for new connections were rightly rejected by the Discom on the grounds that the building in question is having height more than 15 meters and as such unless the Fire Clearance Certificate from the Fire Department is provided, the connections cannot be granted.

7. Against the above background, in order to get the new electricity connections released, the Appellant must complete all commercial and other formalities including obtaining of the necessary 'Fire Clearance Certificate' from the Fire Department as required under the regulations, which is mandatory for release of the connections as the height of the building is more than 15 meters without stilt parking.

Hence, no substantive case is made out for any interference with the verdict of the Forum and the appeal is disposed of accordingly.


(S.C.Vashishta)
Electricity Ombudsman
17.02.2021