

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. 23/2023

(Against the CGRF-BYPL's order dated 15.03.2023 & 04.05.2023 in Complaint No. 35/2023 and Review Application No. 6/2023 respectively)

IN THE MATTER OF

Shri Mukesh Kumar Gupta

Vs.

BSES Yamuna Power Limited

Present:

Appellant: Shri Shanky R.S. Gupta & Ms. Bhavna , Authorised Representatives

Respondent: Ms. Amita Sharma, AM-PS, Ms. Shweta Chaudhary, Legal Retainer and Ms. Ritu Gupta, Advocate, on behalf of BYPL

Date of Hearing: 31.08.2023

Date of Order: 01.09.2023

ORDER

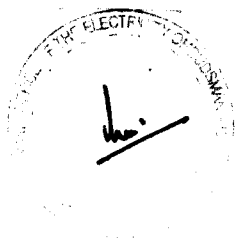
1. Appeal No. 23/2023 has been filed by Shri Mukesh Kumar Gupta, through his authorized representative Shri Shanky R.S.Gupta, C/o Ventom House,, 48-A DDA Flats, Mansarover Park, Shahdara, Delhi - 110032, against Consumer Grievance Redressal Forum - Yamuna Power Limited's (CGRF-BYPL) order dated 15.03.2023 & 04.05.2023 in Complaint No. 35/2023 and Review Application No. 6/2023 respectively.

2. The instant case is that the Appellant applied for a new connection at the premises bearing No. 2/2, First Floor, Plot No. 555, G.T. Road, Mansarover Park, Delhi- 110032, which was rejected by the Respondent vide their deficiency letter No. Nil dated 27.01.2022 (print date) on the ground that the premises where the

connection has been sought is under the Municipal Corporation of Delhi (MCD)'s Objection/Disconnection list. He was asked to submit a 'No Objection Certificate' or 'Completion-cum-Occupancy Certificate' from the MCD, for the release of new connection. The Appellant also mentioned that the Discom released the electricity connection on 26.02.2022 at premises No. 550/4, Moti Ram Road, G.T. Road, Shahdara, Delhi, in favour of Shri Vinit Goel and Shri Sanjay Rastogi, without obtaining 'completion-cum-occupancy certificate' or 'No Objection Certificate'. Against this, the Appellant approached the CGRF-BYPL and submitted that Plot No. 555, where the connection is sought, has already been regularized and electricity connections have already been energized at the building recently, and requested the release of new connection.

3. In rebuttal, the Respondent submitted before the Forum that at the time of site inspection, it was found that the building consists of ground & first floor and it had one temporary connection/meter No. 55333667 on the site that needs to be removed as it had served its utility. Further, the applied address was found in MCD's objection list, hence, the Appellant was asked to submit either a BCC or an NOC from MCD. On the contrary, the representative of the complainant submitted that the applied portion is different from the booked portion, therefore, connection may be granted to his client. The Respondent further submitted that the address of the complainant in the MCD list is Khasra. No.555/2/1 adjacent to 552/2/1 (Lucky General Store), Moti Ram Road, Mansarovar Park, Shahdara, Delhi, and booked "u/c in the shape of ground floor and first floor up to the level of column raising brick work without sanctioned building plan (SBP) with projection on municipal land (area-50 sq. yards)." Moreover, the name of the owner/occupier given in the list is Mukesh Gupta, who is the complainant before the Forum.

4. The Forum in its order dated 15.03.2023 duly elaborated Regulation 10(3) and 11 (2) (iv) (c) of the DERC (Supply Code & Performance Standards) Regulations, 2017, with regard to the Appellant's query to emphasize that the Respondent could not energize in violation of any provision of the Act, Rules & Regulations, or any other requirement, if so specified or prescribed by the Commission or Authority under any of their Regulations or Orders. The Forum also referred to the case of Parivartan Foundation vs. South Delhi Municipal Corporation & Others in W.P.(C)11236/2017 dated 20.12.2017, which laid down that the BSES-BRPL and Delhi Jal Board shall ensure that no connections are provided and water and electricity are not supplied to the buildings constructed in violation of law.



The Forum further stated that as per property documents submitted by the complainant, the area of the property is 44.44 sq. yards, and MCD has pointed out that the complainant has covered 50 sq. yards and consequently encroached on the municipal land. It is, therefore, clear that an adjoining area has been encroached upon by the complainant. It does not make any difference if it is numbered 2 or 3, because numbers are not allotted by MCD. The complainant has not produced any evidence to prove otherwise, and as such, it is only the complainant's premises that is booked by MCD. The Forum opined that the premises has been constructed in violation of rules and regulations, therefore, the Respondent cannot be compelled to release the connection and rejected the Appellant's complaint.

5. The Appellant filed a review application before the Forum in May, 2023 against their order dated 15.03.2023, which was dismissed as "complainant not pressed for review".

6. Aggrieved from the order dated 15.03.2023 passed by the Forum, the Appellant filed this appeal on the ground that the premises where a new connection has been sought is totally different from the premises mentioned in the MCD's objection list. Further, the Discom has already energized an electricity connection (CA No. 153143832) on the premises No. 555/2/1, G.T.Road, Shahdara, Delhi-110032, in favour of Ms. Anju, which had also been in the MCD's objection list. The Appellant specifically mentioned the names of the officials of the Discom for harassment and also filed police complaints/FIR against them.

7. The Respondent in their reply dated 30.06.2023 to the appeal referred the various lists of the MCD's objection list. In the list circulated by the MCD vide letter No. EE(B)-II/SH-N/2021/D-461 dated 09.04.2021 at serial no. '45', it is mentioned that property owned/occupied by the Appellant bearing Khasra No. 555/2/1, adjacent to 552/2/1 (Lucky General Store), Moti Ram Road, Mansarovar Park, Shahdara, Delhi, unauthorized construction is "u/c in the shape of ground floor, first floor up to the level of column raising of brick work without SBP with projection on Mpl. (municipal) land (area = 50 sq. yards)". The Respondent further stated that it is the Appellant's property which is booked and is adjacent to property bearing no. 552/2/1 (Lucky General Store). The Appellant also did not deny that his property is adjacent to M/s Lucky General Store.



8. Regarding several police complaints/FIR lodged against the officials of the Discom, the Respondent submitted that the Appellant has unnecessarily referred to those cases and are irrelevant to the present appeal. Action is required to be taken in compliance with the provisions of the DERC's Regulations and the law laid down by the Courts (Parivartan Case etc.).

9. The appeal was admitted and taken up for the hearing on 31.08.2023. During the hearing, the Appellant was represented by his Authorized Representatives Shri Shanky R S Gupta & Ms. Bhavna and Respondent by their Counsels/Authorized Representatives. An opportunity was given to both to plead their case at length.

10. During the hearing, the Counsel of the Appellant reiterated his grievance as submitted before the Forum. The Appellant was asked to inform what action was taken by him after the name/premises appeared in the MCD's objection list dated 09.04.2021 (at SI No. 45). Whether the Appellant approached MCD, personally or in writing for removal of the name of the Appellant from their objection list? The Appellant responded that since his address is 555/2/2 and not 555/2/1, clarification was sought from MCD through Lieutenant Governor Portal of NCT of Delhi, and status of his application is still shown pending. With regard to actual position of Lucky General Store, the Counsel drew a rough map on paper and explained it. The Counsel consistently pressed upon that the premises No. 555/2/2, where electricity connection is sought, is totally different from the premises booked in MCD's objection list, i.e. No. 555/2/1, adjacent to Lucky General Store.

11. In rebuttal, the Respondent reiterated its submissions placed before this court in response to the appeal as well as in the Forum. In response to a query to the Counsel of the Discom, as to whether clarification regarding booked property was sought from the MCD, the Counsel submitted that it was not required because the site was physically verified and found to match with the name/address mentioned in the list. It was further asked why there is delay on disconnection/removal of existing temporary connection installed on the subject premises. The Counsel stated that the Respondent initially granted temporary connection for a period of three months, which continued with further extension till completion of construction,

12. The matter has been considered in the light of the record and the submissions. It is apparent from the record that the premises No. 555/2/1 in the name of Mukesh Kumar Gupta (Appellant) is in MCD's objection list dated 09.04.2021. No action has been taken in respect of the unauthorized construction either by the Appellant or the MCD for more than two years. Site report and map enclosed by the Respondent after visit on 14.01.2022 indicate that the premises




has ground floor and first floor. MCD list dated 16.09.2021 also separately specifies unauthorized constructions (Sl. No. 10 to 15) on ground floor at 555 (part) Moti Ram Road, Ram Nagar, in plots of varying sizes. Since these appear adjacent areas, whether Discom has taken any action, in coordination with the MCD and Special Task Force, as per directions of the Supreme Court is not borne from the record. The two lists dated 09.04.2021 and 16.09.2021 together refer to 78 such properties with unauthorized constructions.

13. This Court has heard the contentions of both the parties, gone through the records produced and also has gone through the relevant rules/regulations, and is of the opinion that the property in question i.e. No. 555/2/1 allegedly owned by the Appellant is the property booked by MCD. This has been shown by MCD vide their letter No. EE(B)-II/SH-N/2021/D-461 dated 09.04.2021 at entry No. 45 of the list which is relevant for the present case. However, the Counsel for the Appellant is emphatic that his premises, where the connection was applied for is 555/2/2 which is different from the booked premises 555/2/1, and, therefore, the connection applied for requires to be released.

14. In view of the discrepancy in the records of MCD, this Court is of the view that the Appellant could be given a chance to get it corrected by the MCD. Though the name shown at entry 45 of the MCD list dated 09.04.2021 is of Appellant, yet, the address seems to be wrong and vice versa. It will be open to the Appellant to approach the MCD for obtaining a clarification/No Objection Certificate/Building Completion Certificate, within ten days (by 10.09.2023), for submission to the Respondent for release of the applied connection. The Discom shall take all steps to release the connection forthwith, after receipt of the clarification/No Objection Certificate. To this extent the orders dated 15.03.2023 passed by the CGRF stands modified. Discom is also directed to examine the existence of temporary connection at the said premises and take action in case there is no request for extension of the same.

The case is disposed off accordingly.


(P.K. Bhardwaj)
Electricity Ombudsman
01.09.2023