

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)

Appeal No. 32/2024

(Against the CGRF-BYPL's order dated 29.07.2024 in Complaint No. 118/2024)

IN THE MATTER OF

Shri Umesh Kumar

Vs.

BSES Yamuna Power Limited

Present:

Appellant: Shri Umesh Kumar along with Shri Neeraj Kumar,
Advocate

Respondent: Shri Nishant Chauhan, Senior Manager, Ms. Chhavi Rani,
Legal Retainer and Shri Akash Swami, Panel Lawyer, on
behalf of BYPL

Date of Hearing: 08.01.2025

Date of Order: 09.01.2025

ORDER

1. Appeal No. 32/2024 dated 23.09.2024 has been filed by Shri Umesh Kumar, R/o A-4/5-6, Nand Nagri, Delhi - 110093, through his advocate Shri Neeraj Kumar, against the Consumer Grievance Redressal Forum – Yamuna Power Limited (CGRF-BYPL)'s order dated 29.07.2024 in Complaint No. 118/2024.

2. The background of the case is that the Appellant had applied for four new electricity connections for the Ground, First, Second and Third Floors of the aforementioned premises (as detailed in the Forum's order dated 29.07.2024). The Discom rejected these connections request on the ground (a) the applied premises, in question had been booked by the MCD's vide their letter No. EE(B)-I/SH-N/2023/D-49 dated 27.03.2023 (listed at Sl. No. 16), under Section 343 & 344 of DMC Act, 1957, due to unauthorized construction and (b) a temporary meter bearing CA No. 351354239 already existed at the site. Subsequently, the Appellant submitted



a copy of a RTI reply/response from MCD vide their letter No. EE(B)-I/SGH-N/2023/D-861 dated 17.11.2023 stating that *"as per record the property bearing No. A-4/5 & A-4/6, Nand Nagari, Delhi- 110093 is not booked in the name of Shri Umesh Kumar Gupta."* On the other hand, the Discom submitted that the Appellant's reliance upon RTI response received from MCD vide letter dated 17.11.2023 is misplaced and misconceived, as the booking of the premises by the MCD is not at all in dispute.

3. Later, the Appellant filed a rejoinder before the Forum on 21.05.2024 and refuted the contentions of the Discom and submitted that he had already paid the demolition charges and thereafter moved an RTI application with the MCD concerning the status of the property in question. In its reply dated 17.11.2023, the Discom admitted that the property in question is not booked in the name of Shri Umesh Kumar Gupta (the Appellant) but the factum of property booked by MCD is not in dispute. The Appellant also referred to the Ombudsman's order dated 09.09.2023 in Appeal No. 49/2023, *"in which the Discom was directed to send another communication to MCD giving 15 (fifteen) days for response about the issuance of 'Building Completion Certificate' and in case no response from MCD was received in the given timeframe, it should be presumed that MCD has nothing to say. Thereafter connection was directed to be released on completion of requisite commercial formalities as per as per prevalent DERC's norms."* Regarding temporary connection, the Appellant submitted that it would be surrendered after installation of permanent electricity connection.

4. The CGRF-BYPL, in its order dated 29.07.2024 observed that the property in question is booked by the MCD and, therefore, 'BCC' is necessary for release of new electricity connections. Regarding judgement of Hon'ble Ombudsman in the matter of Shri Imran vs. BYPL, facts and circumstances in both the cases were entirely different. In the matter of Shri Imran, the complainant had submitted a 'BCC' on record, which the Discom was required to verify from the MCD. But in the present case, BCC or NOC has not been placed on record. Consequently, the Forum directed that the complainant has to submit a 'Building Completion Certificate' from the MCD and dismissed the complaint. However, liberty was given to the complainant to submit 'Building Completion Certificate, in future, so that the Discom releases the new electricity connections, subject to fulfilling all other required formalities.

5. Not satisfied with the Order dated 29.07.2024 passed by the CGRF-BYPL, the Appellant filed this appeal, reiterating its submissions as before the Forum. Additionally, the Appellant submitted that there was no prior information to him regarding site visit and in this regard referred to Regulation 11(2)(iii) of the DERC's Supply Code – which mandates that the Licensee shall conduct field inspection of the



premises in the presence of the applicant or his representative on the appointed date and time before carrying out the site visit. The Appellant prayed for release of the connections recognizing the dictum under Article 14 of Constitution of India – “Equality before the law”.

6. The Discom, vide letter dated 11.10.2024 reiterated its submissions as before the Forum. Additionally, the Discom relied upon several judgements on “negative equality” in response to the Appellant’s request for release of new connections as per Article 14 of the Constitution of India. The Discom also noted that the Appellant had raised new pleas which had not been taken before the Forum including allegations of false and fabricated documents, improper site visit, etc.

7. The appeal was admitted and fixed for hearing on 08.01.2025. During the hearing, both the parties were present along with their authorized representatives. 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 present

8. During the course of hearing, the Appellant reiterated the submissions as before the CGRF and in the appeal. The Appellant submitted that following a Right to Information application submitted to the MCD, he was informed that there was no booking in the name of ‘Umesh Kumar’ (the Appellant). The Appellant confirmed that he had paid the demolition Charges to the MCD. However, in response to a query by the Ombudsman, regarding the action taken after submission of demolition charges, no details could be provided. It was noted that the property, in question, appears at Sl. No.16 in the MCD list dated 27.03.2023 and booking on account of unauthorized construction on various floors is mentioned. The Appellant also placed reliance on a similar case of CA No.154371289 (RC-Mr Jayant), where after the payment of demolition charges and subsequent action by the MCD, the Discom released the connection. Upon query whether the Appellant had received any MCD notice regarding the removal of unauthorized construction with respect to applied property, the Appellant made a submission about the puncture of some portion of the property but could not furnish any details or certificate from the MCD in this regard.

9. In rebuttal, the Discom reiterated its written submissions that the factum of booking of the building exists, although not in the name of the Appellant, as mentioned in the RTI reply. Only after submission of Building Completion Certificate (BCC), the connection could be released. On query in respect of the existence of temporary connection at the premises and its renewal from time to time, the representatives of the Discom could not give any satisfactory reply, stating, however, that initially temporary connection was released for one year and is subject to review thereafter.



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

- (a) The premises, in question, has been booked by MCD in the name of Jagdish for unauthorized construction.
- (b) RTI Reply simply states that there is no booking in the name of Shri Umesh Kumar Gupta, and does not expressly deny booking of premises by the MCD.
- (c) Decision in Shri Saleem Case was not followed by the CGRF since that case took into account an express communication from MCD stating that the "property is not booked against unauthorized construction" by the office. Ipso facto, it is of no avail to the Appellant.
- (d) CGRF has sought compliance with DERC's Supply Code as well as decision in "Parivartan Case" by the Delhi High Court.
- (e) Discom has relied upon principle of "negative equality" as enshrined in cases decided by the Supreme Court of India.
- (f) RTI was filed in misrepresented form and MCD RTI reply cannot be considered as clearance of property booked. Thus, BCC is required for release of electricity connection. The reliance on other cases referred in appeal to show that many more connections have been given based on RTI reply/Undertaking/Affidavit. These cases are not considered relevant. All these cases are supported by different grounds and material. Continuance of temporary connection also needs to be reviewed in view of Regulation No. 16(12) of DERC's Supply Code, 2017.

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


- (i) The order passed by the CGRF-BYPL is up-held.
- (ii) The Appellant shall obtain BCC/NOC from MCD and upon production/submission of the BCC, the applied connection could be released upon completion of commercial formalities.
- (iii) CEO of the Discom, may call for the record of the release of connection in the name of Shri Jayant (CA No. 154371289), to verify compliance with the guidelines/norms for release of the said connection.



14. 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
09.01.2025