

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. 35/2024

(Against the CGRF-BYPL's order dated 19.09.2024 in Complaint No. 110/2024)

IN THE MATTER OF

Shri Mohd. Naeem

Vs.

BSES Yamuna Power Limited

Present:

Appellant: Shri Nishi Kant Ray, Advocate on behalf of the Appellant

Respondent: Shri Nishant Kumar Nain, Senior Manager, Shri Akshat Aggarwal, Legal Retainer and Shri Akash Swami, Advocate, on behalf of BYPL

Date of Hearing: 01.01.2025

Date of Order: 02.01.2025

ORDER

1. Appeal No. 35/2024 dated 10.10.2024 has been filed by Shri Mohd. Naeem, through Shri Nishi Kant Ray, Advocate, against the Consumer Grievance Redressal Forum – Yamuna Power Limited (CGRF-BYPL)'s order dated 19.09.2024 in Complaint No. 110/2024.

2. The background of the case is that the Appellant had applied for a new electricity connection for his premises located at 2561, First Floor, Right Side, Bara Chaman Wara, Fatak Habash Khan, Tilak Bazar, Delhi -110006. However, on 26.12.2023 the Discom rejected his request on the ground of existence of "two units on first floor and existence of two connections bearing meter Nos. 35360868 and 70032063". The Appellant challenged this decision before the CGRF-BYPL, submitting that he had purchased the 65 sq. yards premises on 02.06.2021 through a General Power of Attorney. The Appellant pointed out that all the other flats/premises in the building have electricity connections, except for his flat/premises. The building in question consists of ground floor to fifth floor. Further, the



Appellant's flat, earlier had an electricity connection bearing CA No. 151611962, which was disconnected due to outstanding dues. The Appellant further submitted that there are two flats on the first floor, one flat owned by him and the other one by a different individual. Regarding the two existing connections on the first floor, the Appellant submitted that one connection bearing CA No. 152137816 registered in the name of Shri Mohd. Qasim on the first floor was being used by the occupant of the fifth floor, while the second connection (CA No. 152509717) was registered in the name of Shri Praveen and being used by the owner of the other flat. The Appellant requested the Forum to direct the Discom to grant/release the applied new connection.

3. In response, the Discom vide its letter dated Nil stated that the building in question consists of ground + four floors over it (in order five floors mentioned). Each floor has two dwelling units except the third floor, which has only one unit. There is also commercial activity on the ground floor. Currently, there are seven electricity connections existing. Since the first floor is already electrified, as such, no new electricity connection can be granted as per Regulation 10(1)(v) and (vi) of DERC's Supply Code, 2017.

4. The Forum, called for the K. No. file of the connection bearing No. 152137816, which is registered in the name of Shri Mohd, Qasim. It has been found that the said connection was energized for the first floor of the building, in question. Consequently, it was concluded that the contention of the complainant that the said connection is being used on fifth floor of the same building cannot be relied upon. Further, the complainant had not produced any evidence on record in support of his contention. The Forum, therefore, rejected his complaint.

5. Aggrieved by the CGRF's order dated 19.09.2024, the Appellant filed this appeal dated 10.10.2024, reiterating its submission as before the Forum. In addition, the Appellant submitted that (a) the connection (CA No. 151611962) at the premises was booked by the Enforcement Department on 07.02.2022, which was subsequently settled by him in the Lok Adalat on 26.03.2023, and obtained a 'NOC' from the Discom, however, the connection was later disconnected in the enforcement case and (b) the Forum did not consider the fact that the electricity supply for the first floor connection registered in the name of Shri Mohd. Qasim is currently being used for a flat on fifth floor. Further, the Forum neither asked for any report nor any joint inspection. The Appellant, therefore, requested for release of new electricity connection to him in the interest of justice.

6. The Discom in its reply dated 26.11.2024 to the appeal have submitted that in order to further ascertain the ground situation, a site visit was conducted on 19.11.2024. During this visit, it was found that the connection associated with CA No. 152137816 registered in the name of Shri Mohd. Qasim for the first floor was being used for fifth floor.



Consequently, appropriate corrective actions were taken and a disconnection notice was issued on 25.11.2024.

7. The appeal was admitted and fixed for hearing on 01.01.2025. During the hearing, the Appellant was represented by his Authorized Representative, Advocate Shri Nishi Kant Ray, and the Respondent was represented by its authorized representatives/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 present.

8. During the course of hearing, the Appellant reiterated his contention as in the appeal and request for relief as prayed. The Appellant asserted that he had purchased the first floor (Right Side) through General Power of Attorney (GPA) dated 02.06.2021. Since then, he is in possession of the applied floor. However, one existing connection in the name of previous owner had become dormant due to delay in depositing the settled enforcement amount in 2023, levied against meter tampering case booked in 2022. As a result, the Appellant was forced to apply for a new connection at the first floor. In response, the Appellant clarified that the Appellant's name was not mentioned on the enforcement dues as he could not transfer it in his name. Despite submission of valid GPA with chain of property, his request for new connection was rejected on the pretext that two units at the first floor are existing with two electricity meters".

9. The Appellant contended that the alleged connection (RC-Shri Mohd. Qasim) is catering electricity to the fifth floor, constructed illegally. Despite legal notice (email) in February, 2024 as well as verbal requests made to the Respondent in this regard, they could not get it verified that Shri Mohd. Qasim has no relation, whatsoever, with the first floor. Further, with respect to ownership of the built up first floor (Right Side), he has already submitted an affidavit dated 08.08.2024 before the CGRF. The claim of Respondent was not tenable which states that the connection, in question, granted at the first floor in the name of Shri Mohd. Qasim in 2017 on submission of GPA dated 05.05.2016 with relevant documents. The Appellant further appealed that the connection can be granted to him.

10. In rebuttal, the Respondent reiterated its contention as submitted in its written submission dated 26.11.2024. In response to a query for delay of almost ten months in conducting the joint site visit, the Respondent could not reply satisfactorily. However, the Respondent admitted the fact that the supply of first floor meter was being used for the fifth floor illegally. In this regard, a notice for disconnection has already been served to Mohd. Qasim, followed by site visit by the team of BYPL on 18.12.2024 but due to resistance by the consumer at site, connection, in question, could not be disconnected. When asked about delay in disconnection of alleged connection, an e-mail dated 31.12.2024,



requesting arrangement for enforcement action was submitted by the Respondent. The same was taken on record. From perusal of K.No. file of Mohd Qasim, it was observed that an affidavit was submitted by him at the time of obtaining alleged electricity connection. In response to a query under which provision of Regulation the Affidavit was asked from Shri Mohd Qasim, the Respondent submitted that the same had been obtained as per Regulation 10 (3) of DERC Supply Code, 2017 which accepts ordinary GPA as Proof of Ownership or occupancy of premises, for applicant's statement. The Respondent further submitted that either GPA with possession or GPA without possession of first floor, being matter of beyond jurisdiction, could not be verified by them.

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

- (i) The Appellant had taken a specific stand before the Forum in respect of the use of the connection of first floor in the name of Shri Mohd. Qasim (CA No. 152137816) being used on the fifth floor. The Discom,, however, maintained that the new connection applied at first floor cannot be released since two connections already stood released for the two dwelling units on the first floor.
- (ii) The Discom has informed that during a site visit on 19.11.2024, the connection bearing CA No. 152137816 was found to be used at fifth floor by Shri Mohd. Qasim, although sanctioned for the first floor. Disconnection notice had therefore been issued.
- (iii) Neither the CGRF ordered any site inspection on the aspect of utilization of the first floor connection on the fifth floor, as alleged by the complainant (now Appellant) nor did the Discom suo moto carry out any inspection. No proper verification of the fact had therefore taken place, causing undue harassment and deprivation of right to electricity to the Appellant.
- (iv) Although, the building has a structure GF/First/Second/Third/Fourth/Fifth Floor, the benefit of Sixth Amendment by DERC's order dated 15.04.2021, would be applicable for release of connection on the first floor.
- (v) Regulation 10(3) contemplates submission of documents to prove ownership/possession of property. GPA, per se, without any supporting document cannot define title to property or interest in property, as decided by Supreme Court in the case Suraj Lamp & Industries (P) Ltd. vs. State of Haryana, SLP (C) 13917 of 2009 decided on 11.10.2011. The GPA in the present case states that the executor Shri Iqbal Ahmed, is the owner/occupier of the property and is in physical possession. Shri Iqbal



Ahmed has further executed a GPA in favour of the Appellant and Appellant had applied for the new connection on the basis of the above GPA executed by Shri Iqbal Ahmed.

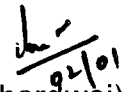
- (vi) The identification of erring Discom officers would need consideration since incomplete or incorrect response was submitted to the CGRF, resulting in deprivation of right, of the Appellant.
- (vii) In view of above, the Appellant is entitled to obtain a connection in his name as per Regulation 10(2)& (3) of DERC's Supply Code, 2017, upon completion of commercial formalities.

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

- a) The order passed by the CGRF is set-aside. Discom is directed to release the applied for connection upon completion of commercial formalities, besides taking appropriate action on misuse of the connection.
- b) An enquiry be ordered into perfunctory site visit reports and action taken report be submitted in four weeks' time.
- c) For the harassment and torture suffered by the Appellant, a compensation of Rs. 2,500/- be paid to the Appellant. The compensation required to be adjusted against the future energy bill.

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 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.


(P.K. Bhardwaj)
Electricity Ombudsman
02.01.2025