

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. 37/2024

(Against the CGRF-BYPL's order dated 09.09.2024 in Complaint No. 283/2024)

IN THE MATTER OF

Shri Wasi Ud Doula

Vs.

BSES Yamuna Power Limited

Present:

Appellant: Shri Vinod Kumar, Advocate on behalf of the Appellant

Respondent: Shri Nishant Kumar Nain, Sr. Manager, Ms. Chhavi Rani, Legal Retainer and Shri Akash Swami, Advocate, on behalf of BYPL

Date of Hearing: 16.01.2025

Date of Order: 17.01.2025

ORDER

1. Appeal No. 37/2024 dated 28.10.2024 has been filed by Shri Wasi Ud Doula through Shri Vinod Kumar, Advocate, against the Consumer Grievance Redressal Forum – Yamuna Power Limited (CGRF-BYPL)'s order dated 09.09.2024 in Complaint No. 283/2024.

2. The background of the case is that the Appellant had applied for a new electricity connection at the premises No. 1830, Fourth Floor, Chatta Agha, Jaan Kalan Mahal, Daryaganj, Delhi – 110002 vide his Request No. 80006876218. This request was rejected by the Discom on the basis of an inspection report dated 02.04.2024, which stated that the building consists of ground + six floors and height of the building is more than 15 meters. Consequently, an Architect's certificate is necessary to ascertain the actual height of the building. Further, the Discom submitted that the connection was applied for the fourth floor, which have five dwelling units and five electricity connections bearing CA Nos. 151181773, 151840542, 153061088, 153637852 154008417 already existed. Furthermore, an unpaid bill of Rs.70,070/-



against CA No. 100337869, for which the Appellant is liable to pay an amount of Rs.5,280/- on pro-rata basis. Additionally, there were pending dues against CA Nos. 4000809812 and 400808274 also.

3. The Appellant contested the contentions of the Discom and submitted an Architect's certificate regarding the height of the building along with his rejoinder dated 18.07.2024 before the Forum. The Appellant further denied about any pending dues on CA No. 100337869 and asserted that these dues are not payable by him. It was also asserted that out of the five meters installed on the fourth floor, one electricity connection bearing CA No. 153637852, registered in the name of Shri Mohd. Saleem was being used on the fifth floor.

4. The CGRF, in its order dated 09.09.2024 stated that the outstanding dues for CA Nos. 4000809812 and 400808274 pertain to the second floor of the building, and, therefore, were not required to be settled by the Appellant. The Forum called for K. No. file of CA No. 153637852, which is registered in the name of Shri Mohd. Saleem, installed at the fourth floor of the building, as claimed by the complainant. Upon examining, the Forum determined that the connection was energized for fourth floor only. Consequently, the contention of the complainant cannot be relied upon and the release of a new connection is not feasible. As a result, the complaint was dismissed.

5. The Appellant, aggrieved by the CGRF's order dated 09.09.2024, has filed this appeal, reiterating his submissions as before the Forum. Additionally, the Appellant contended that the connection bearing CA No. 153637852 was released unlawfully based on property documents pertaining to the fourth floor, while it was currently being used on the fifth floor. Therefore, it needs to be disconnected immediately.

The Appellant's requested before this Court for (a) to direct the Discom to release the requisite connection and (b) compensation for physical and mental harassment.

6. The Discom, in its submission dated 14.11.2024, reiterated its stand as before the CGRF. Furthermore, the Discom relied upon Regulations 10(1)(v) and (vi) of DERC's Supply Code, 2017 and asserted that the Appellant has not substantiated his allegation regarding the connection having CA No. 153637862, which is registered in the name of Shri Mohd. Saleem, as catering supply to the fifth floor. Additionally, the denial of dues amounting to Rs.5,280/- (on a pro-rata basis), appears to be an attempt to avoid his legal liability.



7. The appeal was admitted and fixed for hearing on 16.01.2025. During the hearing, the Appellant was represented by Advocate, Shri Vinod Kumar and the Respondent was represented by its Representatives/Advocate. An opportunity was given to both the parties to plead their respective cases at length. Relevant questions were asked by the Ombudsman and Advisors, to elicit more information on the issue.

8. During the hearing, the Advocate representing the Appellant reiterated his claim that the applied connection had not been granted because five connections were already released for the existing five dwelling units on the fourth floor. He argued that the connection released in the name of Shri Mohd. Saleem on fourth floor was being utilized on the fifth floor, however, this contention was not accepted by both the Discom and the CGRF. The CGRF had called for the K.No. file of Shri Mohd. Saleem, in which, the relevant document (passport) clearly mentions the address as fifth floor instead of the fourth floor. The Appellant, therefore, sought relief in the form of release of the connection that had been applied for.

9. In rebuttal, the Respondent raised the possibility of the two consumers conniving for mutual benefits. However, the Discom had submitted a supplementary reply dated 16.01.2025 before the hearing and mentioned that on the basis of a site visit, it was found that the said connection of the fourth floor was being used on the fifth floor, therefore, a notice for disconnection had been issued to Shri Mohd. Saleem. The Respondent did not provide satisfactory response to a query on the blatant violation of Regulation 10(3) of DERC's Supply Code, 2017. The Respondent accepted the infirmity in non-compliance with the provisions of Regulations and stated that necessary action was being taken against the responsible officers and accountability would be fixed. It became apparent that no verification was done by the Discom and no action taken on the perfunctory site visit report at any time on the basis of the application for connection and during pendency of the matter before the CGRF. Such grave misrepresentation and subsequent misuse attracts action for unauthorized use of electricity. The Respondent agreed that necessary action would also be taken in this regard.

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

- (a) The Appellant purchased the flat at fourth floor on 02.02.2016 through GPA, agreement to sell (Rs.4.00 lakh), possession letter, will and affidavit, receipt, etc. from Shri Mohd. Sultan Gauri.
- (b) Connection was installed in the name of Shri Mohd. Saleem at fourth floor and energized on 25.01.2022, based on passport having address as fifth floor, indemnity bond, affidavit, etc. since ownership proof was not available, and



an undertaking. The indemnity bond, affidavit and undertaking given by Shri Mohd. Saleem and accepted by Discom is contrary to the provisions of DERC's Supply Code, 2017.

- (c) The Architect certificate relied upon by the Appellant states height of about 15 meters, although conceding total six floors of the building and without mentioning total height of the building.
- (d) Bill for Rs.71,080/- dated 29.05.2024 against CA No. 153637852 in the name of Shri Mohd. Saleem mentions arrears of Rs. 54,725.80 for March, 2024/ The Appellant has nothing to do with this.
- (e) The Appellant has disputed transfer of dues in his name as outstanding against CA No. 100337869 as not related to him and also assailed settlement claim against CA No. 400809812 and 400808274.
- (f) Discom has not taken any steps for verification of the alleged use of connection by Shri Mohd. Saleem in his name on the fourth floor and being used at fifth floor.
- (g) After examination of the case, it is clear that Discom released the connection of Shri Mohd. Saleem for fourth floor merely on the basis of affidavit and undertaking while flouting Regulation 10(3) of the DERC's Supply Code, 2017. In the passport, the address mentioned is fifth floor and this document has been submitted as proof of ownership or occupancy of premises. This establishes that there was connivance of Shri Mohd. Saleem with Discom officials for giving the connection for fourth floor, while the usage/address is for fifth floor. Since no efforts are made by Discom to validate actual use of connection, an enquiry be proposed to ascertain how Discom released connection of Shri Mohd. Saleem by ignoring the provisions of DERC's Supply Code, 2017.
- (h) A site visit report submitted by Discom during December, 2024, confirms that the connection released to Shri Mohd. Saleem for fourth floor is being used by him for the fifth floor.

11. This court has gone through the above aspects as well as the replies submitted by both parties very minutely. After having gone through the relevant provisions of DERC's Supply Code, 2017, this court directs as under:


- (i) The order passed by CGRF-BYPL is set-aside and the connection applied for by the Appellant be released after completion of commercial formalities.



- (ii) The balance due against CA No. 1030337869 is required to be paid on pro-rata basis by 23 occupants of the building and, hence, the Appellant is liable to pay his share towards the un-paid dues.
- (iii) He is, however, entitled to payment of Rs.2,500/- as compensation for the harassment caused to him by the Discom. The said amount shall be adjusted against his share of payable dues, as mentioned in Point (ii) above.
- (iv) An enquiry is required to be undertaken to know the circumstances under which the connection was released to Shri Mohd. Saleem for fourth floor while the document for ownership/occupation (Vide Clause 10(3) has been submitted for fifth floor. On the basis of enquiry action needs to be initiated against the officers for submitting false report.
- (v) Necessary action(s) also need to be initiated against Shri Mohd. Saleem for submitting false affidavit and using the electricity unauthorizedly for the fifth floor while taking connection for fourth floor.

12. 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
17.01.2025