

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-cum-Fax No.: 011-26144979)

Appeal No. 42/2023

(Against the CGRF-BRPL's order dated 12.09.2023 in Complaint No. 04/2023)

IN THE MATTER OF

Shri Ram Prasad Sharma

Vs.

BSES Rajdhani Power Limited

Present:

Appellant: Shri Ram Prasad Sharma, in person.

Respondent: Shri S. Bhattacharjee, Sr. Manager, Shri Arav Kapoor
and Ms Komal Gupta, Advocates, on behalf of BRPL

Date of Hearing: 10.01.2024

Date of Order: 11.01.2024

ORDER

1. Appeal No. 42/2023 has been filed by Shri Ram Prasad Sharma, R/o 36/1-5, Yusuf Sarai Village, New Delhi-110016, against the CGRF-BRPL's order dated 12.09.2023 passed in C.G. No.04/2023.

2. The background of the case is that the Appellant had applied for four non-domestic electricity connections(2 KW each) for basement, first floor, second floor & third floor, of the building/premises bearing No. 1/17525, Part – 60/4, Khasra No. 76, Yusuf Sarai Market, Aurobindo Marg, New Delhi – 110016, on several occasions between September, 2021 to December, 2022, but the Discom rejected the same on the ground that (a) - ELCB not installed at the site - as per Clause 42 of Central Electricity Act (Measures Relating to Safety & Electric Supply) Regulations, 2010 & Clause Nos. 5,7(5),11(2)(iv) and 11(2)(viii) of Delhi Electricity Regulatory Commission's Supply Code, 2017, (b) Fire Safety Clearance required for building height more than 15 meters without stilt parking - as per Clause No. 11(2)(iv) of DERC's Supply Code, 2017 - and (c) Test Report duly signed by Licensed Electrical



Contractor required - as per Clause 11(iv)a of DERC's Supply Code, 2017. These deficiencies were duly informed to the Appellant by the Discom vide their numerous 'Deficiency Intimation' letters issued between the period 14.06.2022 to 15.12.2022. The Appellant also claimed that initially the Discom did not provide him site visit reports regarding height of the building.

3. Since the Discom did not release the connection applied for despite approaching the Discom several times, the Appellant filed a complaint before the CGRF on 23.01.2023 with a request to direct the Discom to release the connections. The Appellant also submitted that the applied premises falls under the category/area "Urbanized Village Land", as such, there is no requirement to submit any 'No Objection Certificate, Occupancy/Completion Certificate' because Bye-laws and Master Plan of Delhi, are not applicable to urbanized village area/land. Further, one 3-phase, 12 KW, electricity connection (bearing CA No. 151429876) had already been energized at the ground floor of the premises without insistence of any fire safety certificate. Moreover, the height of the applied building is only 13.80 meters (excluding mumty), which is under permissible limit. In this regard, registered Architect's certificate dated 07.12.2010 and Fire Safety Certificate dated 23.04.2019 had already been submitted to the Discom. The Appellant also mentioned various letters/notifications issued by various authorities which mainly referred to DERC's letter dated 31.05.2019 and 6th Amendment dated 15.04.2021 with regard to height of the building/premises.

4. However, the Discom before the Forum submitted that as per their record the Appellant had applied for numerous new connections at the property/building mentioned in para 2 of supra. The site was visited for checking the technical feasibility and it was found that the applied building (basement + Ground floor + first floor + second floor + third floor + room at fourth floor) is a commercial (Guest House), in nature, and height of the building was 15.925 meters, which was beyond the permissible limit. Accordingly, the Appellant was informed vide their letter No. DGM (B)HKZ/869 dated 07.07.2022 to submit 'Fire Clearance Certificate' from the concerned authority. Though, the Appellant submitted the fire clearance certificate but upon verification from the office of Fire Department, they categorically denied the certificate vide their letter No.: 6/DFS/MS/2022/Misc/1936 dated 29.07.2022 and mentioned therein that they have not issued any fire clearance certificate in favour of the applicant. Consequently, it was found that the Appellant submitted allegedly forged documents and, therefore, the connections could not be released.

5. The CGRF in its order dated 12.09.2023, stated that the applied premises/building comes under the list of Central Government's Urban Villages in Zone, Yusuf Sarai at Sl. No. 35, therefore, Special Area Building Regulations as well as Unified Building Bye-Laws (UBBL) for Delhi, 2016/Master Plan for Delhi (MPD), 2021, will be applicable. As per the complainant, although the Respondent provided a



copy of the site visit report, the building height was allegedly not measured as per the Unified Building Bye-Laws and the DERC's letter. The Respondent, however, submitted that the height of the building was measured as per DERC's letter dated 31.05.2019 and was found to be more than 15 meters.

Regarding objection on the height of the building, it is a fact that the Discom's site inspection report dated 02.02.2023 was prepared in the presence of the complainant and was duly signed by him. The complainant had not mentioned whether the applied connections were for domestic use or non-domestic use. This fact gets clarified only from the contents of the Respondent's letter dated 10.02.2023 and 24.07.2023, hence, the applied building/premises is commercial and as such Mixed-use building criteria for grant of new connections would not be applicable. The complainant himself submitted that the building was used for guest house purposes earlier and categorically mentioned that the reason for applying new electricity connection was to meet the urgent requirement of office-use, which is a commercial activity. Moreover, the complainant himself was ready to submit a declaration that he was ready to remove/demolish extra portion of the height within one month after installation of new electricity connections as sought, failing which the Discom shall be at liberty to disconnect the supply without any prior notice.

In view of above, the CGRF ordered that the applied building is of commercial in nature and situated in the market place of posh locality of New Delhi. As per Chapter-V of the Delhi Fire Service Rules, 2010, under Delhi Fire Service Act, 2007, business building having height more than 15 meters or having ground plus four upper floors/stories including mezzanine floor, needs to submit necessary NOC/Fire Clearance Certificate' from the competent authority. As the building did not contain any residential units, therefore, Schedule of Charges and the Procedure (Sixth Amendment) order dated 15.04.2021 would not be applicable in the present case. Consequently, the Forum opined that it cannot direct the Respondent to process the complainant's applications for release of connections.

6. Not satisfied with the CGRF's order dated 12.09.2023, the Appellant preferred this appeal on the same grounds as submitted before the CGRF and to emphasize that 'NOC' from the Fire Department will not be required/issued to those buildings covered under Special Area Building Regulations, 2010 and Clause No. 7.31 of Chapter 7 from UBBL, 2016. The Appellant also submitted that he was not satisfied with the results of site visit report dated 10.02.2023 which was carried on 02.02.2023 by the Discom and to support his contentions submitted various photographs of the building.

7. The Respondent in its written submission reiterated its earlier submissions as before the CGRF. In addition, the Respondent submitted that during the hearing before the Forum, the Appellant mentioned his willingness to remove/demolish the extra portion (beyond 15 meters) of the height of the building within one month after



installation of new electricity connections as sought, which was rejected by the Forum mentioning that such undertakings do not have any merit for taking into consideration for release of the applied connections. It is also established that the Appellant had accepted that the height of the applied building is more than 15 meters.

8. The appeal was admitted and hearing was fixed for 10.01.2024. During the hearing, the Appellant was present, in person, and Respondent was represented by its Authorized Representatives/Counsels. An opportunity was given to both the parties to plead their case at length.


9. During the hearing, the Appellant could not produce any material in support of his contention with regard to the building height and the nature not being commercial. Advisor (Engineering) showed photographs of the building which showed existence of structure in the form of the room at the top floor which made the building height measured up to 15.925 meters, which is beyond permissible limit of 15 meters under the commercial category. The contention of the Appellant that the Unified Building Bye-Laws of Delhi and Municipal Laws do not govern the urbanized villages was also not found convincing as the fire clearance is for safety of the occupants and the location of the building does not matter. The Appellant was also conveyed that the creation of office space tantamount to making the building commercial in nature. Any commercial building which, is more than 15 meters in height requires fire clearance.

10. The Representative for the Respondent reiterated its stand as submitted before the CGRF.

11. Having taken all factors, written submissions, relevant provisions of DERC's Supply Code, 2017, and arguments into consideration, it is apparent that the height of the building is more than 15 meters. Therefore, as a commercial building, DERC's Sixth Amendment Order dated 15.04.2021 would not be applicable in the instant case. It is mandatory for the Appellant to obtain fire clearance certificate from the competent authority.

12. In view of the above, the Court up-holds the order dated 12.09.2023 passed by the CGRF-BRPL and directs the Appellant to obtain fire clearance certificate from the competent authority and subsequently Discom may release the applied connections after completion of all commercial formalities.

The appeal stands disposed off accordingly.


(P.K. Bhardwaj)
Electricity Ombudsman
11.01.2024