

OFFICE OF THE 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
(Telephone No.: 011-26144979)

Appeal No. 6/2019

(Against the CGRF-BYPL's order dated 28.02.2019 in Complaint No.05/01/2019)

IN THE MATTER OF

Shri Yogesh Gambhir & Smt. Neelam Gambhir

Vs.

BSES Yamuna Power Limited

Present:

Appellant : Shri O P Ahuja, Authorized Representative of the Appellant

Respondent: Shri D.Ravi Kumar, DGM, Shri K. Jagatheesh, Senior Manager,
Shri Rajeev Ranjan, Sr. Manager & Shri Achal Rathi, Legal
Retainer on behalf of BYPL

Dates of Hearing: 30.04.2019 & 28.05.2019

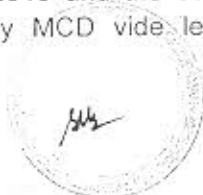
Date of Order: 31.05.2019

ORDER

1. The instant appeal No. 6/2019 has been filed by Shri Yogesh Gambhir & Smt. Neelam Gambhir through their authorized representative Shri O.P. Ahuja against the order of the CGRF-BYPL dated 28.02.2019 passed in Complaint No. 05/01/2019. The issue concerned in the Appellant's grievance is regarding the non release of new domestic connection for their newly built premises at 9B/4, NDNE Scheme, Old Rajinder Nagar, New Delhi - 110060.

2. The background of the case is that the Appellant applied for a new connection on 25.10.2018 for a unified domestic load of 80 KW from LT system for their newly constructed building covering the area of stilt floor, ground floor, first floor and second floor but the Discom (Respondent) denied the connection for want of space, for development of sub-station, to be provided by the Appellant, as required under the DERC Regulations, 2017 and SDMC order dated 30.03.2017. The Appellant stated that since their load requirement is of 80 KW only and the same is to be supplied at 400 V wherein the building of sub-station in the residential premises is not required, as per the provisions of the tariff order.

The Appellant further submitted that site plan of the building was approved by MCD in the year 2015 vide their letter No. 01/OL/SP/B/HQ/NDMC/2015/D-02/AE-VI dated 20.01.2015 and the completion/regularization certificate of the building was issued by MCD vide letter No.: D/AE(B)/KBZ/2016/245 dated



24.10.2016. The copies of both the letters were submitted by the Appellant for reference and record. The Discom has denied them the connection on the basis of Clause No.22 of the DERC Supply Code & Performance Standard Regulations, 2017 and Clause 6(4) of Schedule of Charges 2017 combined with the SDMC circular dated 30.03.2017 read with the annexure, which stipulates the procedure for release of new connection in respect of space required for installation of sub-station and load calculation requirements etc. It was also argued by the Appellant that since their building plan was applied and passed by MCD in the year 2015 and the building was regularized in the year 2016, well before the date of applicability of the provisions for earmarking the space for sub-station, which was incorporated in the DERC Regulations on 01.09.2017 and issue of guidelines by SDMC on 30.03.2017, so the space for the same was not reserved in the building plan submitted to MCD. The MCD also passed the building plan as per the extant regulations in the year 2015-16 without any provision of space for sub-station and if the same would have been provided in the plan they would have kept the provision and handed over the same to Discom.

3. The Appellant also furnished the copy of the layout plan of the premises and submitted that it is evident from the plan that the space for the indoor sub-station in the approved built-up house is neither technically feasible nor it can be accommodated anywhere at this stage, keeping in view the building by laws and safety norms. He also stated that the argument of the Discom for plot size being more than 500 sq. mt. is not sustainable for residential premises. He further argued that the connection can certainly be released from the nearby existing sub-station in the locality which is around 150-200 meter away from the premises and hence there is no need for installation of another new sub-station. The Appellant also submitted that since they are a single family unit and need a single electrical connection only which can be easily fed from the existing LT system and further if need be the requirement of the load can be reduced to some extent.

Since the connection was not released by the Discom, the Appellant approached the CGRF for imparting directions to the Discom for allowing the new connection of the subject cited load from the existing LT system wherein their appeal was dismissed with the directions to the Appellant to provide the required space for the substation for release of the connection as per the provisions of present regulations. The Appellant has preferred this appeal against the CGRF's order mainly on the grounds that the Forum has not taken into consideration the fact that Clause 22 of the DERC Regulations, 2017 became applicable only after 01.09.2017 and the SDMC guidelines came into effect from 30.03.2017 onwards and are not applicable for the cases prior to that. Also, the Forum has not considered their plea that the building has been constructed as per approved site plan and there is no space available for accommodating the sub-station and under these circumstances the space for sub-station cannot be made available until and unless the building is demolished and rebuilt.



In view of above the Appellant has prayed as under:

- a) That the guidelines which were applicable before 01.09.2017 may be operated.
- b) That the technical feasibility report should be framed on the existing distribution system.
- c) That if the Respondent needs augmentation and for the same they are in requirement of the additional space, it may be demanded from the state government as per provisions of guidelines 22 of Electricity Supply Code 2017.
- d) That the Respondent has since not made mention of the existing load on their system, it is apprehended that the load requirement of the Appellant is feasible on the present supply system. The application of the Appellant for new connection may therefore be processed forthwith.
- e) That if the Respondent need the augmentation of their existing system, the time frame for augmentation may be intimated as per the guidelines and till such time the augmentation of the system is done, some load in addition to existing 11 KW may be released as interim arrangement.

4. The Discom's version of events is that the Appellant applied for a new domestic connection at his building 9B/4, NDNE Scheme, Old Rajinder Nagar, New Delhi - 110060 for a load of 80 KW on LT system. The electricity supply to the premises of the Appellant for a load of 80 KW is not feasible without provision of the space for installation of sub-station by the Appellant as per Clause 22 of the DERC Regulations, 2017 which is reproduced below:

"Space for installation of grid substation, transformers, service line, meter and other equipment:-

- (1) The developer or the applicant applying for supply of electricity from the Licensee shall provide free of charge, the applicable land space of requisite dimensions as notified in the Commission's orders, at a convenient location, as may be mutually agreed between the consumer and the Licensee, for erection and installation of grid substations, transformers, switch gear, meter, equipment, etc.:*

Provided that where the developer is a Government Agency, the land space shall be provided through Government of National Capital Territory of Delhi as per the prevailing policy:

Provided further that where there is no specific developer in an area and the augmentation of the existing distribution system to meet out the load demand requires the land space for installation of grid substations, transformers, switch gears, etc. the distribution licensee shall approach the Government of National Capital Territory of Delhi, within fifteen days of such requirement, for allotment of land space indicating the probable land space available in such areas:



- (2) *Except for HT or EHT networks, the Licensee shall have no right to utilize the substation in the consumer's premises, without his consent, for the supply of electrical energy to other consumers:*

Provided that the utilization of such assets for providing electricity to other consumers shall not in any manner affect the supply to the consumers for which such assets were originally installed."

The Discom also submitted that they are also governed by Clause No. 6(4) of the Schedule of Charges and the procedure, under DERC Regulations, 2017 and the SDMC orders dated 30.03.2017 which specifies and stipulates the load calculations and space requirements needed for release of connections to different categories of consumers. The relevant portion of Clause 6(4) applicable in the present case is reproduced as given below:

**The developer/applicant taking supply at Low Tension level for any premises or for re-constructed premises, requiring LT Service connections whose:*

- (i) Total cumulative demand of all floors in the plot/building for LT service connection exceeds 100 KW/108 kVA; or*
- (ii) Total cumulative built up area of the premises in the plot/building exceeds 1000 sqm; or*
- (iii) Plot of size above 500 sqm or above*

Shall provide the space for installation of distribution transformer, as per the required load:

Provided that the minimum space required to be provided by the developer/applicant for installation of distribution transformers/equipment shall be as per circular no. South DMC/0148/SE(B)/HQ/Addl.Coml/17 dated 30.03.2017 notified by South Delhi Municipal Corporation or as amended from time to time."

In view of above clauses, the Discom submitted that the connection cannot be provided without required provision of space for development of sub-station by the Appellant. They also informed that the applied load is not feasible on the existing system as per the feasibility report prepared by their technical team. In any case the connection can only be provided as per the existing law. The Forum has passed a well reasoned order after considering all the facts and circumstances of the case and the regulations applicable in the instant case and in view of the same, it is prayed that the present appeal is liable to dismissed.

5. After hearing both the parties and going through the material on record, the basic issue revolves around the plea raised by the Appellant that the regulations and SDMC guidelines being enforced on them by the Discom, for provision of space for installing the sub-station, for release of their new domestic connection, pertain to the buildings/premises built after 31.03.2017 only. Since their building plan was passed by MCD in the year 2015, when these regulations were not in force, so no provision of space was kept for the installation of the sub-station and the same was also not enforced by MCD. The building was completed as per the approved site plan and regularized by MCD in the year



2016 and now no suitable space is available in the built up premises which can be spared for installation of the sub-station. During the hearing, the Appellant however agreed to get the site inspected and if any required suitable space is available in the premises, he is still ready to provide the same for the purpose.

Whereas the Discom's version is that they are bound by the Clause 22 of DERC Regulations, 2017 and guidelines issued by the SDMC and the electricity connection can be released only after the provision of space in the building by the Appellant, for the development of sub-station, based on the above said regulations and guidelines issued by Delhi Electricity Regulatory Commission and SDMC respectively

In order to establish beyond doubt whether the denial of space by the Appellant was on account of non-availability of space in the premises, the Discom and the Appellant were directed to conduct a re-visit to the site and furnish the exact status of the Appellant's premises with respect to availability of space, keeping in view the building bye-laws and safety norms for installation of the sub-station.

The Discom submitted in their site inspection report that there is no clear vacant place available at the backside of the building as the same is basically occupied by AC ducting and fencing, although a clear space of 4.6 mt. between built up area and the boundary wall is available in the front portion of the plot which can be used for putting up the transformer and other related equipments etc.. The Appellant, however, showed his unwillingness to provide that space for the transformer since it will block the entrance and exit path of the stilt floor meant for parking of vehicles. The Discom team did not find any other space suitable for putting the transformer except the front side of the plot.

6. It is abundantly clear from the sequence of events that site plan of the Appellant was passed in the year 2015 and the premises was built as per the approved plan and the same was also regularized in the year 2016 well before the date, the new regulations, 2017 and SDMC guidelines came into effect on 01.09.2017 & 30.03.2017 respectively. Therefore, the contention of the Appellant that Discom cannot deny him the new connection since his premises was built well before the new regulations came into force is perfectly in order. The action of the Discom in declining his request is therefore inexplicable.

However, keeping in view the submission of the Appellant that he is ready to offer the space if feasible an opportunity was given to Discom to lookout for the possibility of finding some suitable space in the premises for installation of the sub-station by re-visiting the site, but they could not find any space but for some space in the front portion of the building. The said space available in front portion of the building has been rightly objected to and denied by the Appellant since it will block the entrance and exit paths of the stilt floor. Moreover, keeping in view the safety norms and conditions of minimum distances between structure and electrical lines and specifications for location of sub-station in premises as provided in Annexure -I of the guidelines issued by the SDMC vide its order dated 30.03.2017, it is held that the location in front of the house as pointed out by Discom is neither technically suitable nor practically feasible and the sub-

station cannot be erected at that place. Further, the Appellant can only be governed by DERC Regulations, 2007, wherein there is no condition for provision of space for a consumer demanding new connection on LT supply system and hence the Discom is bound to grant the electricity connection to the Appellant in any case.

In the background of the above, the order of the Forum is set-aside and the Appellant's plaint is therefore allowed. The Discom is directed to grant the electricity connection sought by him forthwith subject to the fulfillment of other formalities.

The appeal is disposed off accordingly.


31/5/19
(S.C.Vashishta)
Electricity Ombudsman
31.05.2019