

CONSUMER GRIEVANCE REDRESSAL FORUM

(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act of 2003)-For BRPL area

Sub - Station Building, Sector - V, Pushp Vihar,

(Near Saket Court Complex) NEW DELHI - 110017

Phones: 8468952631, 8468935702 TELEFAX: 29564400

Email: cgrfbrpl@gmail.com

No: CG -17/2019/F1/206

Dated : 11/11/19

Smt. Sunita Batra
W/o Shri Vijay Batra,
Through Shri Manoj Banka (A/R)
NEW DELHI - 110014

Subject: - Redressal of Grievance by the Forum

Madam,

1. Any complainant, aggrieved by orders of the Forum may himself/herself or through his authorized representative make a representation in writing to the Ombudsman.
2. The representation shall state clearly:
 - (i) The name/s and address of the consumer/s, service connection number, category, the name of the local licensees' office, against which the representation is made, the facts giving rise to the representation, the grounds thereof, the relief sought from the Ombudsman.
 - (ii) The name of the Forum, date of order or decision of the Forum shall, as the case may be mentioned in or enclosed with the representation.
3. No representation to the Ombudsman shall lie unless:
 - (i) The consumer had before making a representation to the Ombudsman approached the Forum constituted under Section 42 (5) of the Electricity Act, 2003 for redressal of his grievance;
 - (ii) The representation is made within one month from the date receipt of the order of the Forum:

Provided that the Ombudsman may entertain a representation beyond one month on sufficient cause being shown by the person filling the representation

that he had sufficient reasons for not filling the representation within the aforesaid period of one month.

- (iii) The person filling the representation deposits an amount equal to one third of the amount assessed by the Forum in cash or by way of bank draft with the licensee and documentary evidence of such deposit is enclosed with the representation.



SECRETARY

Encl: Certified copy of order (06 pages).

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In the matter of:

Smt. Sunita Batra
W/o Shri Vijay Batra,
Through Shri Manoj Banka (A/R)
NEW DELHI - 110014

....Complainant

Versus

BSES Rajdhani Power Ltd.
BSES Bhawan, Nehru Place,
NEW DELHI - 110019.

... Respondent

Córam:

1. Mr. Atul Nigam - Chairman
2. Mrs. Nirja Ahuja - Member (L)
3. Mrs. Monika Taneja - Member (CRM)

Appearance:

Complainant : Shri Manoj Banka, Authorize Representative of the complainant

Respondent : Shri Manish Kumar, Sr. Manager , Division - Nizamuddin

(Date of Hearing: 10.10.2019)

(Date of Order: 28.10.2019)

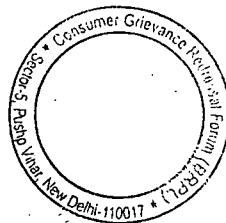
ORDER

Mrs. Nirja Ahuja, Member (Legal)

In brief case of the complainant is that the complainant is the owner of the property bearing No. 276, Church Lane, Bhogal, New Delhi-110014 and she has applied for new electricity connections. The above said property is duly constructed having Basement, Ground Floor, Upper Ground Floor, First Floor, Second Floor, Third Floor and Fourth Floor. The complainant had applied for new electricity connections on 28.05.2018 floor wise vide application nos. 1019944232, 1019944234, 1019944235, 1019944237 and 1019951876 at the above mentioned premises. Application of new electricity connections were rejected by respondent vide letter dated 29.05.2018 on

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the basis of building booked by MCD, MRO Permission Required, O&M Permission required. Complainant approached respondent for release of connections, however all his efforts went in vain and electricity connections were not released to him. Being aggrieved, complainant filed the complaint before the Forum, which was registered.

On notice respondent appeared and filed its reply and documents before the Forum.

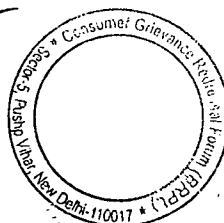
Respondent submitted reply dated 11.01.2019 that the complainant has applied for new connections vide application nos. 1019951876 etc. on 24.05.2018 and the mentioned applications was rejected due to MCD booked building, building height more than 15 metres, O&M permission required and temporary meter removal particulars required.

Respondent further submitted vide their reply dated 25.02.2019 that site visit was done on 28.05.2018 and the connections were rejected on deficiencies as mentioned in foregoing paragraph. Later, on 30.10.2018 applicant submitted a copy of building regularization letter issued by SDMC. The height of the mentioned building was measured again in November 2018 after receipt of complaint and height was found to be more than 15 metres. As per Forum instructions on 13.02.2019, the height was measured again on 19.02.2019 in presence of AR of complainant Shri Manoj Banka. Joint visit report duly signed by respondent and AR of the complainant was placed on record.

During the joint inspection, it was found that the height of the building is 16.38 meters and building comprises of Basement, Ground, First, Second, Third and Fourth floor. Authorized Representative for the complainant conceded that height of the building is more than 15 metres and therefore, he sought liberty to withdraw the complaint to get a requisite fire clearance certificate from the concerned fire department, so that he can apply afresh for the release of new connections. Accordingly complainant was permitted to withdraw the complaint with liberty to approach again on the same issue, if so required in future.

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The complainant again approached the Forum on 16.07.2019 for re-opening of his case. Since, the matter was earlier withdrawn on 25.02.2019 by the complainant with liberty to re-open the same, Forum allowed for hearing the complaint again.

Complainant submitted that he is the occupier of the premises and facing lots of problems due to non-release of electricity connections inspite of his having submitted the fire clearance certificate to the respondents. He submitted that on 31.05.2019 the Hon'ble DERC had issued the letter regarding the issue of grant of electricity to a building having total height up to 17.50 metres and it was clarified in the said letter that the distribution licensee for release of the new electricity connection shall not insist for Fire Clearance Certification for the residential buildings having height up to 15 metres without stilt parking and 17.50 metres with stilt parking. Complainant therefore prayed that the respondent may pleased be directed to release new electricity connections at the earliest as the same is an essential requirement without which any person cannot enjoy the property.

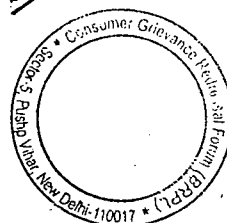
Respondents however in rebuttal stated that the fire clearance certificate being shown is based upon the sanctioned plan given by the complainant to the fire department and is not fire clearance certificate which is necessary for releasing connections. Forum after hearing both the parties directed respondents to send a letter to the concerned fire officer to verify the height of the building and inspect the building of complainant for the said purpose. Respondent did not write letter to the Fire department as directed but submitted vide their letter dated 24.09.2019 that in the light of SMCD letter no. 579/AE(B)IV/CNZ/18 dated 01.10.2018, the issue of MCD booking is resolved. However, building consists of Basement, Ground Floor plus five floors above ground floor. Building height as measured from the highest point of surrounding ground level is more than 15 meters and no stilt parking was found and the fifth Floor (is on terrace of 4th floor) has one room, one kitchen and bathroom. Height of this room, kitchen and bathroom is included in total building height.

They further submitted that fire clearance certificate is not there and in the absence of the same connections cannot be released as building height is more than 15 metres.

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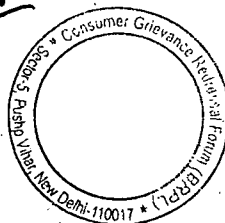
On the direction of the Forum joint visit was done on 09.10.2019 and report alongwith the photographs were submitted before the Forum during the hearing on 10.10.19. Respondent stated that the consumer has shown the ground floor as a stilt parking by demolishing wall, but the height of said floor is 3.68 metres from ground level to lower lanter level (including 68 cm ramp height). They further submitted that as per Unified Building Bye-Laws for Delhi 2016 clause 7.15.1 the height should be maximum 2.4m at soffit level of beam and 2.7m height at soffit level of slab for providing stilt parking space. Ramp (0.68m height and width 1.30m and length 1.50m) constructed, which seems a temporary arrangement to get the electricity connections. Hence this floor cannot be treated as stilt parking and the total building height is more than 16 metres.

We have heard the parties at length and have also gone through the documents filed by the complainant and respondent before us and have examined the same. In our considered opinion we do not find any anomaly in action of the respondent in rejecting application for new connections in the absence of the fire clearance certificate. We have also perused various provisions of law and the judgments on the said issue of releasing connections in building having height more than 15 meters. We would like to quote here Hon'ble DERC clarification received on the issue relating to grant of connection to buildings having total height of 17.5 meters vide letter no. F.17(85)/Engg./DERC/2016-17/5403/487 dated 31.05.2019. Relevant para is quoted below:-

“ 7. Based on the above, it is clarified that the distribution licensee for release of electricity connection shall not insist for fire clearance certificate for the residential buildings having height upto 15 metres without stilt parking and 17.5 metres with stilt parking. The measurement of the height of the building shall be made in accordance with clause 1.4.16 and 7.19 of Unified Building Bye-Laws for Delhi 2016.”

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We have also seen the joint inspection report in which it is mentioned that height of the floor is 3.68 metres from ground level to lower lanter level (including 68cm ramp height). As per Unified Building Bye-Laws for Delhi 2016 clause 7.15.1, the height should be maximum 2.4m at soffit level of beam and 2.7m height at soffit level of slab. Unified Building Bye-Laws for Delhi 2016, clause 7.15, relevant para is quoted below:-

“ 7.15 Provision of parking in stilts, Podium and Landscaping.

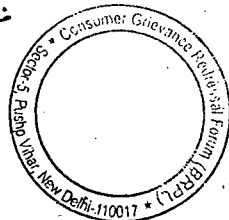
7.15.1 In case a building is to be constructed on individual plot with stilt floor, a maximum 2.4m height at soffit level of beam and 2.7m height at soffit level of slab for providing parking space is permitted. In podium(s), maximum 2.4m height at soffit level of beam and 2.7m height at soffit level of slab for providing parking space can be constructed in continuation of the stilt floor having access for the parking without conflicting with the access requirement as per clause 3.7 and 8.2 from the plot line. The terrace of podium may be used for plantation, swimming pool, landscaping, other related structures and parking / entrance and exits as required.”

Perusal of the report and clauses of Unified Building Bye-Laws for Delhi 2016 clearly substantiates the fact that the said floor cannot be treated as stilt parking and the total building height is more than 16 metres.

As mentioned in the foregoing para that for releasing the connection in the building of the height more than 15 metres without stilt parking and in the building of height more than 17.5 metres with stilt parking the fire clearance certificate is a necessity. In the case of CWP 2710/1998 and CM 4780/2003 titled as Dr. B. L. Wadhwa vs. Govt. of NCT of Delhi, Division Bench of High Court in the context of fire safety to be provided in high rise buildings held that fundamental rights are placed beyond the

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reach of ordinary legislations and directed the authorities not to supply essential services unless and until the building is compliant with fire safety requirements. Also in the case of WP (C) 1476/2014, titled as Vikas Singh vs. Lieutenant Governor and Ors Hon'ble High Court has observed that nothing can be more fundamental than the issue of public safety and the right of life.

In view of above facts and circumstances, complainant is unable to fulfill the condition as prescribed under law and in absence of Fire Clearance Certificate connections cannot be released.

Accordingly, case is disposed off.

Sd/-
(Mrs. Monika Taneja)
Member (CRM)

Sd/-
(Mrs. Nirja Ahuja)
Member (Legal)

Sd/-
(Atul Nigam)
Chairman

