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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 9416/2018 and CM No. 36511/2018**

RAHMATI BEGUM

..... Petitioner

Through

Mr Kuwal Kalra, Adv. with Mr Yatin Vohra, Adv.

versus

BSES RAJDHANI POWER LTD AND ANR.

..... Respondents

Through

Mr Sunil Fernandes, Standing counsel with Mr Arnav Vidyarthi, Adv. for R-1 & 2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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07.09.2018

VIBHU BAKHRU, J

1. The petitioner has filed the present petition impugning an order dated 15.01.2018 passed by the Consumer Grievance Redressal Forum rejecting the petitioner's claim for being provided an electricity connection. The petitioner also impugns an order dated 16.04.2018 passed by the Electricity Ombudsman rejecting the petitioner's appeal against the aforesaid order dated 15.01.2018.

2. The petitioner is, essentially, aggrieved by the denial of an electricity connection.

3. The petitioner claims to be a resident of *Jhuggi* described as 'Jhuggi AB, Kamal Cinema, Safdarjung Enclave, near PNB Bank, New Delhi - 110029'. She further claims to have become owner in possession of the

same on account of residing at the said location since the year 1985 without any obstruction or hindrance of any kind.

4. On 10.07.2015, the petitioner applied for a new electricity connection by an application (no. 8001963776). However, the same was rejected by a letter dated 10.07.2015 indicating the reasons as: “No Document Provided”. Subsequently, by a letter dated 30.03.2017, the petitioner was also informed that BSES (the respondent company) could not process the petitioner’s request for the reasons which were described as under:-

“Registered Area, Registered Ownership Paper Required of applied address. Disputed Property, DAK No. 484, Enforcement dues pending CA-400937907.”

5. Thereafter, the petitioner sought a clarification of the aforesaid issue raised by BSES but the same was also rejected by a letter dated 02.06.2017.

6. Aggrieved by the same, the petitioner filed a complaint dated 19.06.2017 with the Consumer Grievance Redressal Forum (BRPL). The petitioner contended that the petitioner had provided the Aadhar Card, Voter ID Card, a letter from an MLA in support of her application for a new electricity connection. She also claimed that she had other documents such as a Gas Connection, PAN Card, Passport and Bank Account, indicating her residential address.

7. BSES contested the aforesaid application on several grounds. It was explained that the petitioner’s application had been rejected for the following reasons:-

“1. The said Plot is existing in the registered area for which the applicant is not having any registered ownership papers. Which are mandatory.

2. Enforcement dues of Rs.6,15,834/- are pending on this property vide CA No. 400937907.

3. Electricity Bill dues Rs.83112/- are pending vide CA No. 102474136 at this address.

4. The said case is a property dispute case as mentioned by the applicant Ms. Rahmati Begum herself vide letter No. 813 dt. 08/06/2017 received through ED 283757309IN (copy enclosed) herself seeking non-execution of the connection in favour of the other party with whom their dispute is going on.

5. Another letter also received vide Dak No. 755 dt. 29/05/2017 through our enforcement office sent by Ms Rahmati Begum and a copy of the same letter received vide Dak No. 683 dt. 16/05/2017 in our office through registered post ED010689616IN. Clearly stated that “**This property belongs to Govt**”

6. We have received complaint against the applicant received in our office vide Dak No. 484 dt. 06/04/2017 through registered post ED279300968IN. (Copy Enclosed). As this Plot is a disputed property and is a **Sub Judicious case registered vide Civil Suit No. 536 dt. 2014**. Due to the above facts we are unable to process her application for New Connection.”

8. Before the Consumer Grievance Redressal Forum, it was also reported by the Delhi Development Authority (DDA) that the plot in question, where the petitioner’s *Jhuggi* is stated to be located, was acquired

by the Government and has been transferred to “West Safdarjung Hospital Residential Scheme on 03.11.1961”. It was further reiterated that a joint inspection was conducted by the concerned departments of the DDA on 17.11.2017. The plot in question was found to be occupied by Sh Ibrar Ahmed (husband of the petitioner) along with his family and Sh Charanjeet Singh s/o Late Sardar Sunder Singh. Both the said persons refused to show any paper regarding allotment of the plot in question from DDA or any other agency. The Architectural Department (HUPW) informed that the plot in question was a part of the community centre (Safdarjung Development Scheme) Block AB, as per lay out plan. The Deputy Director (Architecture) South Zone, DDA also reported that the space in question was earmarked for “future development” and “P & T Offices”.

9. The Consumer Grievance Redressal Forum issued a notice to Sh Charanjeet Singh and he also appeared before the said forum. He claimed that he had constructed a room on the plot in question and had employed Ibrar Ahmed, husband of the petitioner as a Chowkidar and permitted his family to reside in the said room. He also confirmed that certain disputes had arisen between the said parties and complaints and counter complaints had been filed before the police.

10. In view of the above, the Consumer Grievance Redressal Forum, by an order dated 15.01.2018, rejected the petitioner’s complaint on the ground that she had failed to provide the proof of ownership or occupancy of the plot in question as required in terms of DERC (Supply Code and Performance Standards) Regulations, 2017. It was concluded that the petitioner was not residing in a *Jhuggi Jhopri* Cluster and the plot in

question occupied by the petitioner had a specific municipal address.

11. Thereafter, the appeal preferred by the petitioner to the Electricity Ombudsman was also rejected by an order dated 18.04.2018.

12. At this stage, it would be relevant to refer to the DERC (Supply Code and Performance Standards) Regulations, 2017 (hereafter ‘the Regulations’), which expressly require the person seeking a new or existing connection, to provide proof of ownership or occupancy of the premises. Sub-regulation (3) of Regulation 10 of the Regulations provides for the lists/the documents, which can be accepted as the proof of ownership or occupancy of the premises. Regulation 10 (3) of the Regulations is set out below:-

“(3) Proof of ownership or occupancy of the premises:-

Any of the following documents shall be accepted as the proof of ownership or occupancy of premises:-

- (i) certified copy of title deed;
- (ii) certified copy of registered conveyance deed;
- (iii) general Power of Attorney (GPA);
- (iv) allotment letter/possession letter;
- (v) valid lease agreement alongwith undertaking that the lease agreement has been signed by the owner or his authorized representative;
- (vi) rent receipt not earlier than 3 (three) months along with undertaking that the rent receipt has been signed by the owner or his authorized representative;
- (vii) mutation certificate issued by a Government body such as Local Revenue Authorities or Municipal Corporation or land owning agencies

like DDA/L&DO;

- (viii) sub-division agreement;
- (ix) For bonafide consumers residing in JJ clusters or in other areas with no specific municipal address, the licensee may accept either ration card or electoral identity card mandatorily having the same address as a proof of occupancy or the premises.”

13. In the present case, Clause (ix) of Regulation 10 (3) of the Regulations is relevant. A plain reading of the same indicates that ration card and electoral identity card, which had been submitted by the petitioner as proof of residence, could be accepted if she established that she was a *bona fide* consumer residing in a *Jhuggi Jhopri* cluster or in the areas with no specific municipal address. In the present case, the finding that the petitioner does not reside in a *Jhuggi Jhopri* cluster cannot be faulted. The petitioner has been unable to produce any material to establish that the *Jhuggi* in question is a part of large cluster of *Jhuggies*. Further, the report submitted by the DDA and other authorities also clearly establishes that the area has a specific municipal address. In this view, the decision that the petitioner has not complied with the requirements of Regulation 10 (3) (ix) of the Regulations cannot be faulted.

14. It is also relevant to note that although the petitioner claims to be residing at the plot in question for the last several decades, the learned counsel for the petitioner has been unable to explain as to the source of electricity drawn by the petitioner in the past. Admittedly, there are substantial dues owed to BSES for supply of electricity at the said location, although, the connections are not in the name of the petitioner.

15. In this view, this Court also cannot find any infirmity with the decision of BSES to decline a new connection on the ground of pending dues.

16. The Ombudsman had also considered the rival contentions and had concluded as under:-

“5. The issue at hand for adjudication accordingly reduces to one of determining whether the Appellant can be treated as a legal occupier of the land/property in question and whether she is entitled to an electricity connection on the basis of the documentation which she has produced in support of her contention of legal residency at this address, consisting of her voter identification card, Aadhaar card and passport. While these documents certainly constitute a proof of identity in terms of Regulation 10(2) of the DERC’s Supply Code and Performance Standards Regulations, 2017, they do not constitute proof of ownership or title, the documentary requirements for which are listed under Regulation 10(3). The Appellant has also argued that an electricity connection today constitutes one of the basic necessities of life and its mere provision does not confer or establish any proprietary rights over the property in question as indicated by the disclaimer printed on the reverse of the bill itself. While it is certainly true that electricity is one of the basic necessities of life today, there is a prescribed framework outside of which it is very difficult to grant a connection. The CGRF has correctly focused on the fact that the documentation provided by the Appellant constitute only a proof of identity under Regulation 10(2) and that an exception could have been possible only under Regulation 10(3)(ix) which expressly provides that a ration card or electoral identity card carrying the same address may be accepted as proof of occupancy in the case of “*bonafide consumers residing in JJ clusters or in other areas with no*

specific municipal address....”. This condition is not met in the present case. Photographs of the property, submitted by both the Appellant and the Discom, do not show anything even remotely resembling a JJ cluster with multiple habitations which could have been construed as being covered by Regulation 10(3)(ix). The property where the Appellant is residing is a plot which the subject of counter claims by another party with the matter presently under litigation before a civil court. Furthermore, the DDA has certified in clear terms that the property belongs to them with no documentation available with the Appellate (or Charanjeet Singh, for that matter) to contradict this.

6. Given this background, and without going into any other issue, the Appellate cannot be considered a “bonafide consumer” but as an apparent trespasser/illegal occupant unless she is able to produce titular documentation or proof of ownership over the parcel of land she occupies. The Ombudsman has the power to intervene and give directions in the event of a deficiency in service which a Discom is required to provide under regulations, but no matter how much we may sympathize with the plight of someone who has to live without electricity, this does not extend to giving directions which may involve a dilution or waiver of the regulations prescribed by the Code cited above.

No interference with the verdict of the CGRF is, therefore, possible or called for and the appeal stands disposed off accordingly.”

17. This Court finds no infirmity with the aforesaid decision. The petition is, accordingly, dismissed. The pending application stands disposed of.

VIBHU BAKHRU, J

SEPTEMBER 07, 2018/pkv