



2025:DHC:11700



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of Decision: 17th December, 2025**+ **W.P.(C) 9541/2023 & CM APPL. 36505/2023, CM APPL. 36506/2023****BANI SINGH & ANR.**

.....Petitioners

Through: Mr. Kuldip Babbar, Advocate
(M: 9810032294)

versus

STATE OF N.C.T. OF DELHI & ORS.

.....Respondents

Through: Mr. Shashi Pratap Singh, Ms. Aishwarya Bhatia and Ms. Anamika Tyagi, Advs. for R-1
Mob: 9560536975
Email: shashipratapadv@gmail.com
Mr. Siddhant Nath, SC for MCD with Mr. Bhavishya Makhija and Mr. Amaan Khan, Advs.
Mob: 9910870397
Email: siddhant.nath@gmail.com
Mr. Moksh Arora and Mr. Santosh Ramdurg, Advocates for BSES**CORAM:****HON'BLE MS. JUSTICE MINI PUSHKARNA****MINI PUSHKARNA, J. (Oral):**

1. The present petition has been filed seeking directions to the respondent-BSES Rajdhani Power Ltd., to allow the petitioners to apply and get an electricity connection under their name.
2. There is a further prayer that the petitioner be exempt from the requirement of filing the completion/occupancy certificate as issued by the



Municipal Corporation of Delhi (“MCD”), in terms of Clause 11(2)(iv) of the Delhi Electricity Regulatory Commission (Supply Code and Performance Standards) Regulation, 2017 (“DERC Supply Code”).

3. Learned counsel appearing for the respondent-MCD has drawn the attention of this Court to the additional Status Report dated 08th May, 2025, filed on behalf of MCD, wherein, it is stated that the whole property in question, i.e., *property bearing No. 1093/23-A, Ward No. 1, St. John’s Church Colony Mehrauli, New Delhi* is unauthorized from the stilt to the third floor.

4. He further submits that the subject property is situated in an unauthorized colony.

5. At this stage, learned counsel appearing for the petitioners submits that the petitioners are occupants of the second floor of the property in question, while the ground floor of the property in question already has an electricity connection.

6. Learned counsel appearing for the petitioners also relies upon the judgment of this Court dated 13th November, 2025, passed in ***W.P.(C) 7618/2023***, titled as ***“BSES Yamuna Power Limited Versus Bhagwanti & Anr.”***, ***and in other connected matters***, to submit that this Court has already held that disconnection of the electricity shall be done only at the time when actual action for sealing or demolition is sought to be taken by the MCD.

7. He, thus, submits that though the property in question may have been booked for unauthorized construction, a domestic connection may be granted for the time being, till actual action for sealing or demolition is taken by the MCD.

8. Learned counsel appearing for the respondent no. 5-BSES Rajdhani



Power Ltd. submits that the petitioners would have to comply with all the codal and commercial formalities.

9. He further submits that in terms of the aforesaid judgment of this Court, the respondent no. 5 shall be enjoined to disconnect the electricity connection, in case, the Court is directing that domestic electricity connection be granted to the petitioners.

10. Having heard learned counsels for the parties, this Court notes that a Show Cause Notice for unauthorized construction has already been issued *qua* the property in question.

11. It is further to be noted that the petitioners are staying in the property in question for the time being, and action is yet to be taken by the MCD against the property in question.

12. This Court in the case of ***BSES Yamuna Power Limited (Supra)***, has already held as follows:

“xxx xxx xxx

12. This Court has also come across various instances wherein, though demolition orders have been passed, however, the unauthorized construction in the property, in full or in part thereof, is protected by the National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2011. It is to be noted that the said Act continues to be in operation and is in force till 31st December, 2026. Thus, in such cases, even though the respective properties are booked for unauthorized construction by the MCD, no action can be taken by the MCD, on account of operation of law.

13. In various instances, this Court notes that where properties are booked for unauthorized construction, on account of various procedural lapses like non-service of the Show Cause Notices, etc., the matters are remanded back to the MCD for considering the matters afresh and passing fresh orders. Thus, in such circumstances also, though the property may have been booked for unauthorized construction, on account of procedural lapses, the MCD follows the due procedure, as per directions of the various Courts.



14. This Court has also come across various instances where though the MCD has fixed the matter for taking action against the unauthorized construction, however, on account of non-availability of police force or on account of stiff resistance from the general public, the MCD is unable to take action on the day when such action is fixed. In such cases, the MCD is forced to defer its action against such properties.

15. Accordingly, it is manifest that wherever unauthorized construction is booked by the MCD, the MCD is not always in a position to take time bound action against such unauthorized construction on account of various factors. Thus, there are cases and instances where the action against unauthorized construction is not taken by MCD for a prolonged period of time.

16. This Court takes note of one such instance, as noted by the learned CGRF in the order impugned in W.P.(C) 7618/2023, wherein, the CGRF has noted that despite passing of about three years, action against the unauthorized construction has not been taken by the MCD. Thus, in such circumstances, where properties remain occupied by various residents, this Court finds no error in the direction of the CGRF to grant electricity connection in the meanwhile, pending action against such unauthorized construction.

17. This Court cannot be oblivious to the fact that when properties are occupied and no electricity connection is granted, there may be unauthorised use of electricity. In such cases, the unauthorized use of electricity leads to cases of electricity theft, which ought to be curtailed.

18. This Court also takes note of the fact that where such properties, wherein, electricity connections are not provided on account of various reasons, and the said properties are occupied, any instance of electricity theft and unauthorized use of electricity, would also lead to unwarranted and avoidable threat to the safety of the people.

19. Thus, considering the detailed discussion hereinabove, this Court is of the view that there is no impediment with the petitioner company to grant or continue with electricity connection in the premises, where such premises are booked for unauthorized construction. However, as and when MCD takes any coercive action against such properties, which are booked for unauthorized construction, the MCD shall duly intimate the concerned electricity companies, in that regard.

20. The electricity company shall be free to disconnect the electricity connection, as and when such request or direction is given by the MCD, at the time of taking action against the unauthorized construction in the properties in question.



21. Accordingly, at the time of any demolition or sealing action being undertaken by the MCD, the electricity company shall duly follow the directions of the MCD, and disconnect the electricity at that point of time.

22. It is further clarified that grant of fresh electricity connection or continuation of electricity connection in properties, which already stand booked for unauthorized construction, or are subsequently so booked for unauthorised construction, shall not be construed by the MCD as violation of the circulars in that regard, which are issued by the respective electricity companies.

23. The aforesaid practice directions shall be followed by the respective parties, so that requisite action for disconnection of electricity is taken by the electricity companies, pursuant to intimation by the MCD, at the time when actual action is taken by the MCD, for either sealing or demolition of such premises on account of unauthorised construction/encroachment/excess coverage.

24. Accordingly, it is directed that the electricity companies/Distribution Companies ("DISCOMS"), shall fully cooperate with the MCD and take requisite action for disconnection of the electricity, at the time when MCD is taking action against unauthorized construction/encroachment/excess coverage, for sealing or demolition of the said properties.

25. The present writ petitions, along with the pending applications, are disposed of, in terms of the aforesaid directions."

(Emphasis Supplied)

13. Accordingly, in the present case as well, the petitioners cannot be denied domestic electricity connection when they are occupying the property in question, and action against the said property is yet to be taken by the MCD.

14. It has been held by Courts time and again that electricity is a basic necessity, and an integral part of right to life under Article 21 of the Constitution of India. Thus, while holding that right to basic amenities, including, electricity is a fundamental right, a Division Bench of this Court in the case of ***"Anuj Kumar Agarwal versus Registrar of Cooperative***



Societies and Others”, 2024 SCC OnLine Del 5087, held as follows:

“xxx xxx xxx

*12. As of now, we are not considering the matter on facts or on the issue of jurisdiction of this Court. For such purpose, we would require the counter affidavits of the respondents on record. **The right of a person for water and electricity connection cannot be underscored. It is apparent that the right to the basic amenities of life, would be a part of fundamental right of freedom to life and liberty. No citizen of the Country can be expected to live a life without dignity and devoid of basic necessities. Electricity and water, today, are essential to the very existence of the citizens.***

xxx xxx xxx”

(Emphasis Supplied)

15. Further, while holding that as long as the petitioner is in possession of the property in question, he cannot be deprived of electricity, this Court in *W.P.(C) 18953/2025*, titled as “*Shri Maiki Jain versus BSES Rajdhani Power Ltd. and Ors.*”, held as follows:

“xxx xxx xxx

*10. **It is to be noted that electricity is a basic necessity and an integral part of right to life under Article 21 of the Constitution of India. Thus, as long as the petitioner is in possession of the property in question, he cannot be deprived of the same.***

*11. **Needless to state that Courts in Catena of judgments have categorically held that the electricity is one of the Fundamental Rights for existence and protected under Article 21 of the Constitution of India. Further, no citizen can be expected to live a life devoid of basic necessities such as the electricity.***

xxx xxx xxx”

(Emphasis Supplied)

16. Accordingly, it is directed that the respondent no. 5-BSES Rajdhani Power Ltd. shall grant domestic electricity connection to the petitioners, without the requirement of submitting a completion/occupancy certificate by the MCD.

17. The application for the petitioners for grant of domestic electricity



connection shall be duly processed by the BSES Rajdhani Power Ltd. and upon completion of the codal formalities, including, deposit of requisite charges towards the electricity connection, the BSES Rajdhani Power Ltd. shall proceed to grant electricity connection to the petitioners.

18. The petitioners shall continue to deposit the electricity charges to the respondent no. 5 in terms of the bills raised by respondent no. 5.

19. It is clarified that today's order shall not confer any special equity on the petitioners with regard to the status of occupation of the property in question by the petitioners.

20. It is further clarified that the MCD shall be at liberty to take action against the unauthorized construction in the property in question, in accordance with law.

21. As and when MCD seeks to take action against the property in question, intimation in that regard shall be given to BSES Rajdhani Power Ltd. Further, BSES Rajdhani Power Ltd. shall be enjoined to disconnect the electricity connection at the time when MCD takes action against the unauthorized construction in the property in question.

22. With the aforesaid directions, the present writ petition, along with the pending applications, is accordingly disposed of.

MINI PUSHKARNA, J

DECEMBER 17, 2025

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