

## BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

(Appointed by the Maharashtra Electricity Regulatory Commission  
under Section 42(6) of the Electricity Act, 2003)

### REPRESENTATION NO. 110 OF 2022

In the matter of release of new connections to redeveloped buildings.

S. R. Dhariya (Deekay Developer) .....Appellant

V/s.

Brihanmumbai Electric Supply & Transport Undertaking (C Ward) ..... Respondent  
(BEST Undertaking)

Appearances:

Appellant : 1. B.R. Patel, Representative  
2. T. D. Jadhav, Representative

Respondent: 1. M.A. Kharote, Divisional Engineer, Customer Care, C ward.  
2. S.M. Virkar, Asst. Engineer  
3. S.V. Shelke, Asst. Engineer  
4. M.B. Edake, Dy. Engineer

**Coram: Vandana Krishna [IAS (Retd.)]**

Date of hearing: 20<sup>th</sup> September 2022

Date of Order : 19<sup>th</sup> October 2022

### ORDER

This Representation is filed on 14<sup>th</sup> July 2022 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the Order dated 7<sup>th</sup> June 2022 passed by the Consumer Grievance Redressal Forum, BEST Undertaking (the Forum).



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2. The Forum, by its order dated 07.06.2022 has dismissed the Grievance Application No. C-457-2022.

3. The Appellant Shri. S.R. Dharia, Partner, Deekay Developer has filed this representation against the order of the Forum. The physical hearing was held on 20.09.2022. Both the parties were present. The Appellant's written submission and arguments in brief is stated as below: -

- (i) The Appellant is a Developer. The Appellant bought this property bearing C.S. No.2869 of Bhuleshwar Division. 14 Bhagirathi Bhavan, 1st Panjarapole Lane, Mumbai -04 for development. The old building was occupied by 66 original occupants. There were 49 electric connections for residential purpose and 17 for commercial purpose for shops. In the year 2015, the Intimation of Disapproval (IOD) was issued by the Municipal Corporation of Greater Mumbai.
- (ii) The Appellant has developed a multi-storey building under the comprehensive rehabilitation scheme of MHADA authority, using land as a resource and incentive floor space index (FSI) in the form of tenements for sale (20%) in the open market.
- (iii) At present, the Appellant has given possession to the original occupiers of the building under guidelines and in coordination with MHADA. All these occupiers are using electricity from a temporary meter which is basically sanctioned for construction activity. The occupiers were previously using power supply which was fed by 4 core 25 sq.mm service cable which is still lying there.

**Important points: -**

- (iv) As per requisition No.231678 dated 02.12.2015 of the Appellant, the Respondent released temporary load of 15 KW on the existing 25 Sq.mm/4C, service No.27259 and a temporary meter was installed on 12.01.2016.



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- (v) The Appellant registered a fresh requisition/application No. 450859 on 08.10.2020 requesting the Respondent for releasing the total load of 298 KW for the newly constructed building comprising of Ground to 22 floors with 93 flats. The Respondent's Sanctioning-Department sent a Letter of Requirement (LOR) on 25.11.2020 to the Appellant requiring him to establish a single transformer distribution sub-station/compact DSS having size 3.6mtr x 5.97mtr, referring to the Development Control Regulations 2034. According to the Appellant, this is not a legal requirement.
- (vi) The Appellant has a grievance about the failure of the Respondent to unconditionally release electrical supply to the redeveloped building. The Appellant expects the Respondent to incur the expenditure on infrastructure costs, if any.
- (vii) On 21.10.2021, the Respondent issued NOC for the construction plan addressed to the Municipal Corporation's building proposal department with intimation to the Appellant, that the Respondent has agreed to waive the sub-station requirement in the plot, subject to the condition that the consequent cost towards LV Network strengthening and service cable will have to be borne by the Appellant. Vide letter PI/Plan/26A/780/2021 dated 23.11.2021, the Respondent informed the Appellant that the estimated cost for LV Network strengthening for releasing the regular electrical load would be Rs. 55,68,368/- which is on chargeable basis. In addition, the Appellant would have to pay Rs. 1,78,457/- towards service connection charges.
- (viii) The Appellant has requested the Respondent not to impose the said cost for LV Network strengthening scheme, contending that imposing of cost is invalid and unlawful. By letter dt. 16.12.2021, the Respondent replied to the Appellant that due to critical network issues, and in view of the fact, that the Appellant has not offered the required DSS space, it is necessary to execute the LV network scheme on chargeable basis to release the electricity load to the building premises of the Appellant. In other words, had the Appellant provided the required space for the substation, the Respondent would have incurred the



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cost of infrastructure. However, since the Appellant has refused to provide this space, the consequent costs must be borne by the Appellant.

- (ix) The Appellant approached the Forum on 18.05.2022. The Forum, by its order dated 07.06.2022 dismissed the Grievance Application. The Forum did not understand the basic issue. The Forum in its order para 6(h) has referred Section 46 of the Electricity Act,2003 (Act) as below:

*“Section 46 of Electricity Act provides that State Commission may, by regulations, authorize a distribution licensee to charge from a person requiring a supply of electricity in pursuance of section 43 any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply.”*

- (x) It is contended that ‘electric line’ means ‘service line’ and not the Electric Network of Distribution Licensee of LV or HV. Network strengthening is the duty of the Distribution Licensee at their own cost. In the Respondent’s area, it is a practice to strengthen LV network where it is required at the Respondent’s own cost. The Appellant, by its letter dated 08.12.2021, requested the Respondent not to impose the LV network strengthening scheme charges, which is invalid and unlawful.

As per Section 42 of the Act, it is the duty of Respondent as a Distribution Licensee to develop and maintain an efficient, coordinated, and economical distribution system in his area of supply.

- (a) The Appellant received a letter dated 21.10.2021 of the Respondent stating that ‘BEST management has agreed to waive off the substation requirement in the plot on reasonable estimated cost for strengthening the network’. The Appellant’s premises previously had permanent supply. Therefore, the Appellant has a strong objection about the charges being imposed by the Respondent for strengthening the network. It is the responsibility of the respondent/licensee to make all necessary arrangements to provide electricity to every individual person if he is eligible to get electricity connection. It is also the responsibility of the



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distribution licensee to bear all the charges for strengthening the network. Such charges cannot be imposed on the consumer.

- (b) According to representative of the Appellant, the reliance placed by the Respondent on the provisions of the Maharashtra Electricity Regulatory Commission (Commission) Regulations is not acceptable in view of the fact that the area of the plot of the Appellant is less than 1000 sq mtrs., for which; under Regulation 28 of the Development Control and Promotion Regulation for Greater Mumbai, 2034, (DCPR 2034) there is no necessity to provide any land or space for a sub-station for electricity (Sub-Station/DSS) in any development project.
- (xi) The Appellant prays that the Respondent be directed
- a) to waive the demand the of payment towards execution of the LV Network strengthening service cable charges.
  - b) to release the permanent load of Appellant's building, as the Appellant is ready to pay the statutory charges, processing fees, connection fees and security deposit.

4. The Respondent filed its reply by its letter dated 03.08.2022. The physical hearing was held on 20.07.2022. Both the parties were heard. The Respondent's submission and arguments in brief is as below: -

## 2.0 Preamble:

2.1 The Appellant submitted a letter dated 25.02.2015 informing the Respondent that Executive Engineer Building Proposals (City) –III (EEBP) had asked Appellant for clearance as regards the necessary provision for Electric Substation for the development of the plot bearing CS No.2869 of Bhuleshwar Division, situated at 12/18,1<sup>st</sup> Panjrapole Lane, C Ward, Mumbai.

Thereafter the Appellant registered a Requisition No. 231678 dated 02.12.2015 for a temporary load of 15 kW for construction purpose for the proposed redevelopment in the said plot. The temporary load was released on existing 25



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sq.mm/4C service cable, and a temporary meter was installed on 12.01.2016. In addition to the temporary load, part load of 17 kW for 17 Commercial Rehab tenants was released for Ground Floor to 2<sup>nd</sup> floor on 24.07.2018 as per Appellant's request.

- 2.2 On 11.03.2015, the Appellant approached for No Objection Certificate (NOC)/Letter of Requirement (LOR) for the Deekay Developer plot. Accordingly, the Respondent issued LOR to the Appellant on 31.03.2015 asking for space to set up a Single Transformer Distribution Substation (DSS) Room having area of 8.0m x 5.5m, for the proposed G + 20 building. On 26.04.2016, the case was again reviewed to assess how much the infrastructure would need to be augmented to provide the connection for the additional load. According, LOR dated. 29.05.2017 was issued stating that **Single transformer DSS was required on the Appellant's plot.**
- 2.3 The Appellant registered a fresh Requisition No. 450859 dated 08.10.2020 for releasing the total load of 298 kW for the entire constructed building comprising of Ground to 22<sup>nd</sup> floors consisting of 93 premises. The earlier building was only G +4.
- 2.4 Further, the Appellant once again approached the Respondent for NOC along with amended plan for the building comprising of Ground to 22<sup>nd</sup> floors. Accordingly, LOR was given on 25.11.2020 to establish a **Single Transformer DSS/compact DSS** of area 3.6m x 5.97m.
- 2.5 **The Appellant did not comply with LOR of the Respondent, and continued with the construction of the entire building without making provision of space for the substation.**
- 2.6 The Appellant registered a separate Requisition No 463182 dated 29.01.2021 only for the rehab load of 120 kW. In this context, the Respondent issued a conditional NOC dated 21.10.2021 as follows: -

*“BEST Management has agreed to waive the substation requirement in the plot subject to the condition that the cost towards LV Network strengthening and*

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*service cable will have to be borne by you. The reasonable estimated cost will be intimated shortly.”*

- 2.7 The Respondent, by its Letter- PI/Plan 26A/780/2021 dated 23.11.2021 informed the Appellant that **the estimated cost for LV network strengthening for releasing the regular electrical load worked out to Rs. 55,68,368/- on chargeable basis.** The Respondent then issued a revised NOC vide PI/Plan/37/CS/910/2021 dated 16.12.2021 subject to the payment of Rs. 42,91,888 (55,68,368-12,76,480)/- for execution of LV Network strengthening scheme (after deducting Rs. 12,76,480/- towards deposit).
- 2.8 **The Appellant, by its letter dated 08.12.2021 requested the Respondent *not to impose the LV network strengthening scheme charges which is invalid and unlawful.* In reply dated 16.12.2021, it was informed to the Appellant *that in order to maintain critical network condition, and since DSS space is not offered by you, it is necessary to execute the LV network strengthening scheme to release the load of yours. Alternatively, it is requested to offer the space for DSS inside the plot to release permanent load, in which case the cost would be borne by the Respondent.***
- 2.9 The Respondent prepared a draft Quotation dated 01.12.2021 for laying of service cable of size 300 sq.mm/4c and informed the Appellant to pay the cost of Rs. 1,78,457/- towards service cable charges and cost of Rs. 55,68,368/- towards LV network strengthening scheme.
- Subsequently, the Respondent issued a revised letter dated 19.05.2022 to the Appellant to make the payment of Rs.42,91,888/-towards LV network strengthening scheme and service cable charges of Rs. 1,78,457/-at the earliest so as to proceed further for releasing the total load.
- 3.0 Whenever the Appellant approached the Respondent’s office, he was informed every time to comply for making the payment towards the execution of L.V. network strengthening scheme and service cable charges.

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**4.0 Respondent's Para-wise comments in the said case are as follows:**

- a) **Appellant's submission: The Appellant applied for a temporary meter for construction purpose on 02.12.2015 vide requisition no. 231678. He applied for 15 kW load requirement.**

The plot net area was more than **473 sq. meters i.e. 544.41 sq. meters.** This plan was submitted by the Appellant for obtaining LOR (Letter of Requirement) for Distribution Sub-Station for the purpose of redeveloping the plot bearing C.S. No. 2869 of Bhuleshwar Division, situated at 137 Panjrapole 'C' Ward, Mumbai – 400 004.

- b) **Appellant's submission: The Appellant mentioned that there is no feasibility of space for establishing Distribution Sub Station.**

The Appellant is giving the current status of the building which is completed in all respects and fully occupied by tenants. However, **when this first LOR was given on 31<sup>st</sup> March 2015, there was no space constraint on the site as the total plot was open space.** Also, while issuing the Intimation of Disapproval (IOD) for redevelopment of the above plot, the Executive Engineer, Building proposal of MCGM Authority, vide its letter ref.no. EB/6134/C/A dated 16.11.2015, has clearly mentioned at point no 21, that ***the NOC from BES&T for substation shall be obtained.*** Also, in the year 2017, the Executive Engineer, Building Proposal (City)-III of MCGM Authority, informed the Appellant that all the conditions of IOD dated 16.01.2015 must be complied with.

From this, it is crystal clear that the Appellant was aware of the fact that he had to comply with the requirement for establishment of the DSS in their plot for obtaining the permanent electric supply to the old rehab tenants and new saleable tenants.

- c) **Appellant's submission: Appellant mentioned that after the site investigation report of the MCGM Authority, BES&T Management agreed to waive the substation space requirement in this plot, subject to**



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**the condition of payment of Scheme cost of L.V. Network strengthening of Respondent and service cable for releasing the permanent electric supply.**

This is a statement of the facts. The Appellant had requested to release part load of 17 kW to 17 commercial rehab tenants for Ground floor to 2<sup>nd</sup> floor. Accordingly, part load of 17 kW has been released for Ground floor to 2<sup>nd</sup> floor on 24.07.2018. Again Vide Requisition No 463182 dated 29.01.2021, Appellant asked for rehab load of 120 kW. Further, representative of M/s. Deekay Developers in its letter dated 25.05.2021 requested to reduce the rehab load from 120 KW to 70 kW.

The Appellant had offered DSS space at 3 different locations within their plot, However, the locations were either found non-feasible or non-acceptable as per CFO norms. Meantime, the Planning (Network) department had given feeding point from external network for rehab load with a condition of establishing a substation in their plot. As it was not feasible to establish the DSS in the said Plot **after its development**, Management's sanction was obtained on 14.10.2021 to waive DSS in the said plot, and it was decided to issue the NOC without asking for the DSS, subject to recovering the cost towards the LV Network strengthening & service cable charges in order to release the supply to M/s. Deekay Developers on chargeable basis in accordance with the Clause 46 of Electricity Act 2003.

Clause 46 of Electricity Act 2003 under the head "*Power to recover expenditure*" is produced below;

*"The State Commission may, by Regulations, authorize a distribution licensee to charge from a person requiring a supply of electricity in pursuance of Section 43 any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply."*

As M/s. Deekay Developers has not offered a DSS space, Respondent is compelled to establish a dedicated distribution facility (DDF) for releasing the



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total load. In this context, the abstract of the relevant clause 2.2 (p) of MERC Regulations, 2021 is produced below:

*“Dedicated Distribution facilities (DDF)” means such facilities, not including a service –line, forming part of the distribution system of the Distribution Licensee which are clearly and solely dedicated to the supply of electricity to a single consumer or a group of consumers on the same premises or contiguous premises.*

Considering the above referred clauses and the facts mentioned in the submission, Respondent states that the cost towards Network infrastructure is to be borne by M/s. Deekay Developers in order to release the permanent load for the constructed building.

Vide Letter- Pl/Plan 26A/780/2021 dated 23.11.2021 it was informed to M/s Deekay Developers that *the estimated cost for LV network strengthening for releasing the regular electrical load is worked out to Rs. 55,68,368/- on chargeable basis.* Later, they issued revised NOC, subject to the payment of Rs 42.91.888/- for execution of LV Network strengthening scheme (after deducting Rs12,76,480/- towards deposit. However, till date, M/s. Deekay Developer has not complied with this. As a result, the relevant scheme has not been yet executed and hence total load could not be released.

- d) BEST has already released the rehab Load up to 17 kW in addition to the temporary load of 15kW for temporary Meter. It will be pertinent to mention that due to this high rise building (Ground + 22 floors), the load requirement has been enhanced as compared to the sanctioned load of old building (Ground + 4<sup>th</sup> floor). Due to existing cable size of 25sqmm/4C being small in size, and the LV network strengthening scheme pending for non-compliance, Appellant’s load could not be released.



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e) **Reply to Exhibits furnished by the Appellant:**

- 1) It is a statement of the fact. However, Respondent has issued Service Quotation dated 12.10.2021 wherein it was requested that *“Your applied load will be released subject to establishment of new sub-station in your plot. & in service quotation dated 01.12.2021, it was requested to pay amount of Rs.55,68,368/- towards LV network strengthening scheme intimated by our Planning (N) Department. Work Order will be forwarded only after payment of Service Quotation charges of Rs. 1,78,457/- & Rs. 55,68,368/- towards LV network strengthening scheme & subject to commissioning of City Maker DSS.”*
- 2) The Forum in its order dated 07.06.2022 has rightly stated *that we do not find that the demand of the respondent to ask the complainant for providing the space for sub-station or asking to the complainant to bear the cost of it is illegal or unlawful”*

The following statement made by the Appellant is not correct: -

*“electric line means service line, and not electric network of distribution licensee. LV& HV network strengthening is the part of duty of distribution licensee at their own cost.*

In this context, the Respondent reiterate that the Appellant has not offered a DSS space. Had it done so, the Respondent would have borne the infrastructure cost. With the result, Respondent is compelled to establish a dedicated distribution facility (DDF) for releasing the total load. Subsequently, the cost towards Network infrastructure is to be borne by Deekay Developer in order to release the permanent load for the constructed building which is in line with the Section 46 of the Act. The Forum in its order has clearly directed that *“Section 46 of Electricity Act provides that State Commission*



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*may, by regulations, authorize a distribution licensee to charge from a person requiring a supply of electricity in pursuance of section 43 any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply. By exercising these powers the MERC has framed Regulations. Clause 4.2 and 4.3 of the MERC Regulations empowers the respondent to recover such expenses as may be reasonably incurred by it being Distribution Licensee in providing electric line or electrical plant Used for the purpose of giving supply, in accordance of Regulation 4.3. Thus, the demand made by the respondent to the complainant for payment of the aforesaid amount as cost of waiver of Sub-Station in the plot of the complainant, cannot be said to be illegal and without payment of it by the complainant the respondent cannot be compelled by this forum to provide permanent supply to the building of the Complainant, as requested by the complainant.”*

- 8) As per Section 42 of the Act, it is the duty of Respondent as a Distribution Licensee to develop and maintain an efficient, coordinated, and economical distribution system in his area of supply. However, in this case, Respondent has to develop a dedicated distribution network for the said redeveloped plot, because this high-rise building comprises of 22 floors (93 premises) and the total load requirement is enhanced to 298 kW as against the previous load of 73 kW meant for old building.
- 9) The Respondent has prepared the relevant scheme taking into consideration the required electrical network for reliability of supply.
- 10) The Respondent argued that overloading of power system is risky and dangerous to catch fire. The Respondent is duty bound to develop a reliable electric network. However, the statute mandates that the incoming consumers have to give sufficient space to develop electric



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network. The Appellant has reserved area for car parking. This indicates that had they wanted, they could have kept some area for the substation. However, they neglected to provide area for developing need-based distribution substation.

- f) In view of the above, the Respondent prays to dismiss the application made by Appellant by directing him to make the payment towards the execution of the LV Network strengthening scheme on chargeable basis at an estimated cost of Rs.42,91,888/- (after deducting the deposit amount of Rs.12,76,480/) and Rs.1,78,457/-towards the service cable charges in order to release total load for the redeveloped building.

### **Analysis and Ruling**

5. Heard the parties and perused the documents on record. The Appellant took this property bearing C.S. No.2869 of Bhuleshwar Division, 14 Bhagirathi Bhavan, 1st Panjarapole Lane, Mumbai -04 for demolishing the old building and to develop a new building thereon. The building was under occupation of then 66 occupiers having 49 and 17 electric connections for residential and commercial purpose.

6. The definition of consumer is given under Section 2(15) of the Act which is reproduced below:

*“2(15) "consumer" means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be;”* ..... **(Emphasis added)**



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The definition of the Grievance is given under CGRF & EO Regulations 2020 which is reproduced below:

*“2.1(e) “Grievance” means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance, which has been undertaken to be performed by a Distribution Licensee in pursuance of a licence, contract, agreement or under the Electricity Supply Code or in relation to Standards of Performance of Distribution Licensees as specified by the Commission and includes inter alia Grievances in respect of non-compliance of any Order of the Commission or any action to be taken in pursuance thereof, which are within the jurisdiction of the Forum or Electricity Ombudsman, as the case may be;”*

7. The Appellant is not directly a consumer in this case and hence the grievance of the Appellant is not technically maintainable. However, because of various issues involving rehab tenants, and because the role of the Ombudsman is also advisory in nature, we hereby examine the representation.

8. The Respondent contended that when the first LOR was given on 31<sup>st</sup> March 2015, there was no space constraint on the site as the total plot area was only open space. The Executive Engineer, Building proposal of MCGM Authority, vide its letter ref.no. EB/6134/C/A dated 16.11.2015, has clearly mentioned at point no 21, that ***the NOC from BES&T for substation shall be obtained***. Also, in the year 2017, the Executive Engineer, Building Proposal (City)-III of MCGM Authority, informed the Appellant that all the conditions of IOD dated 16.01.2015 must be complied. It is crystal clear that the Appellant is aware of the fact that he has to comply with the space requirement for establishment of the distribution sub-station in his plot for obtaining the permanent electric supply to the old rehab tenants and new saleable tenants. There is no provision for keeping the previous sanctioned load as reserved since the consumers of that premises are permanently disconnected for more than six months. The Appellant registered a requisition/application No. 450859 on 08.10.2020, for releasing the total load of 298 kW for the entire newly constructed building comprising of ground to 22<sup>nd</sup> floors having 93 premises in the building. The Respondent’s sanctioning-department sent a letter of Requirement (LOR) dated 25.11.2020 to the Appellant



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requiring him to establish a single transformer distribution substation/compact DSS having size 3.6mtr x 5.97mtr referring to DCPR Regulations 2034. The Appellant has not complied with the same; on the contrary, he did not propose a substation before sanctioning the building plan. The Respondent is, thus, compelled to establish a dedicated distribution facility (DDF) for releasing the total load. The cost towards Network infrastructure is to be borne by Deekay Developer in order to release the permanent load for the constructed building.

9. The Appellant contended that it is not a legal requirement to establish a single transformer distribution substation/compact DSS having size 3.6mtr x 5.97mtr. **There is no feasibility of space for establishing Distribution Sub Station.**

10. On 21.10.2021, the Respondent issued NOC for the construction plan addressed to the Municipal Corporation's building proposal department with intimation to the Appellant, that the Respondent has agreed to waive the sub-station requirement in the plot, **subject to the condition that the cost towards LV Network strengthening and service cable will have to be borne by the Appellant**, vide letter dated 23.11.2021.

11. The Respondent is duty bound to sanction and release the connection as per provision of Section 42 of the Act and to develop and maintain an efficient, coordinated, and economical distribution system in his area of supply. However at the same time, the Appellant was also duty bound to provide the space for the required substation. Had this space been provided, the cost of the DSS would have been borne by the Respondent. But since the Appellant has failed to do so, it cannot now claim that the consequent cost cannot be borne by him.

12. In view of the various arguments discussed above, we hold that the Appellant is not entitled for any relief. However, during the course of the hearing, the Respondent agreed to modify LT Distribution network extension point where it was proposed to tap it for releasing the supply. The revised point would be closer to the redeveloped building, hence the infrastructure cost would be lower.



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13. It is important to note that it is critical to maintain the reliability of the electricity network. Its overloading is to be avoided at all costs for restricting danger to lives. Fire may break out due to overloading of the system. It is not understood how the Developer has made provision for parking in the building, but not for electric substation. Hence, he does not deserve to get any relief.

14. The Representation of the Appellant is rejected as it is not maintainable.

Sd/-  
(Vandana Krishna)  
Electricity Ombudsman (Mumbai)



(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai

