

C A No. Applied For
Complaint No. 186/2025

In the matter of:

Nishi GuptaComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

1. Mr. P.K. Singh, Chairman
2. Mr. P.K. Agrawal, Member (Legal)
3. Mr. S.R. Khan, Member (Technical)

Appearance:

1. Mr. Suraj Aggarwal, Counsel for the complainant
2. Mr. Akash Swami, Mr. R.S. Bisht, Mr. Nishtant, Ms. Chhavi Rani & Mr. Akshat Aggarwal, On behalf of BYPL

ORDER

Date of Hearing: 12th March, 2026

Date of Order: 17th March, 2026

Order Pronounced By:- Mr. P.K. Agrawal, Member (Legal)

1. The complainant filed present application under Section 146 of the Electricity Act 2003 for non-compliance/delay in compliance of the orders of the Forum passed in present case by the Forum on 15.09.2025.
2. The complainant filed an application on 08.05.2025 for non-release of the electricity connection by the OP on the grounds of ESS space required. During the course of hearing, the officials of OP stated that they do not require space for ESS installation and would release the new electricity connection to the complainant.

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CGRF (BYPL)

Complaint No. 186/2025

Upon the assurance/statement from the official of the respondent, the Forum reserved the matter and vide their order dated 15.09.2025 directed OP to release the new electricity connection to the complainant without asking for space for installation of ESS.

3. The complainant later on 14.10.2025 filed an application under Section 146 of the electricity Act, 2003 before the Forum for non-compliance of the orders of the Forum dated 15.09.2025.

4. Against the application of the complainant for non-compliance, the OP filed their written submissions, stating therein that Section 146 is a penal provision, which can be invoked only in cases of contravention of the electricity Act Rules, regulations or directions/orders issued by the Appropriate Commission.

OP further submitted that the order of the Forum dated 15.09.2025 does not confer any absolute vested or unconditional right upon the complainant/applicant for grant of electricity connection. The complainant admittedly failed to comply with the mandatory requirements within the stipulated period and furnished the requisite affidavit and completed the necessary formalities only on 06.11.2025. Thereafter, OP released the connection to the complainant.

5. The complainant, against the reply of OP submitted that the Forum issued order on dated 15.09.2025 and the complainant filed non-compliance application before the Forum on 14.10.2025, thereafter the application was listed for hearing on 06.11.2025 and only after hearing OP asked for affidavit/undertaking from the complainant which is an after-thought or demand from the OP, which was not raised by OP at the time of final order. Therefore, delay is not on the part of the complainant.

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CGRF (BYPL)

Complaint No. 186/2025

6. Before disposal of the complaint the relevant Section 146 is reviewed.

Section 146. (Punishment for non-compliance of orders or directions):
Whoever, fails to comply with any order or direction given under this Act, within such time as may be specified in the said order or direction or contravenes or attempts or abets the contravention of any of the provisions of this Act or any rules or regulations made thereunder, shall be punishable with imprisonment for a term which may extend to three months or with fine, which may extend to one lakh rupees, or with both in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to five thousand rupees for every day during which the failure continues after conviction of the first such offence:

1[Provided that nothing contained in this section shall apply to the orders, instructions or directions issued under section 121.]

7. Scope and Purpose of Section 146

Section 146 of the Electricity Act, 2003 provides punishment for non-compliance of orders or directions issued under the Act.

Important legal interpretation:

Section 146 generally applies to orders issued by the Appropriate Commission (State or Central) or directions under the Act.

The order in question is passed by a Consumer Grievance Redressal Forum (CGRF).

Under the Electricity Act, 2003:

- CGRFs are constituted under Section 42(5).
- Their role is consumer grievance resolution, not criminal enforcement.

Most regulatory interpretations hold that:

- Section 146 is normally invoked for violation of orders of the State Commission or authorities empowered under the Act.
- CGRF orders are quasi-judicial consumer grievance orders, and enforcement mechanisms are usually administrative or regulatory, not criminal prosecution under Section 146.

Therefore, OP's argument has some legal basis that Section 146 may not automatically apply to CGRF orders.

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Complaint No. 186/2025

The extract of Section 42 (5) is given below:

Section 42. (Duties of distribution licensee and open access): --

(5) Every distribution licensee shall, within six months from the appointed date or date of grant of licence, whichever is earlier, establish a forum for redressal of grievances of the consumers in accordance with the guidelines as may be specified by the State Commission.

Following words of the above section need to be highlighted:

".....redressal of grievances of the consumers in accordance with the guidelines as may be specified by the State Commission"

The guidelines have been issued by DERC by way of DERC (Guidelines for establishment of the Forum and the Ombudsman for Redressal of grievances of Electricity Consumers) Regulations, 2024 and DERC Supply Code and Performance Standards, 2017. None of these regulations provide any power to the CGRF for taking up the DISCOMs for non-compliance of its orders or for taking action against them under Section 142 or Section 146 of the electricity Act.

Regulation-75 of DERC (Supply Code and Performance Standards) Regulations, 2017 provides:

75. Penalty:-

(1) The Commission may impose penalty, on case to case basis:

(i) for non-achievement of any target for overall standards of performance

(ii) for violation of any of the provisions of these Regulations or any of the directions/advice/orders issued by the Commission.

(2) The penalty paid by the Licensee shall not be allowed to be recovered in the Annual Revenue Requirement (ARR) of the Licensee. 4 of 5

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Complaint No. 186/2025

This Section also clarifies that power of penalty lie with DERC.

In view of the above, it is very clear that this Forum cannot proceed under Section 146 of the Electricity Act 2003. The petition is, therefore, dismissed.

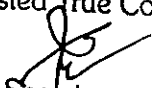

(P.K. AGRAWAL)
MEMBER (LEGAL)


(S.R. KHAN)
MEMBER (TECH.)


(P.K. SINGH)
CHAIRMAN

5 of 5

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CGRE (BYPL)