

# Chander Prakash Kapur vs Tata Power Delhi Distribution Limited & ... on 2 April, 2025

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 02nd A

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W.P.(C) 2271/2025

CHANDER PRAKASH KAPUR

Through:

Mr. Narendra Kalra, Adv.  
VC)

versus

TATA POWER DELHI DISTRIBUTION LIMITED

& ANR.

.....Respondents

Through:

Mr. Manish Srivastava and  
Srivastava, Advs. for R-  
M: 9572620480  
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Ms. Urvi Mohan, Adv. for  
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CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

MINI PUSHKARNA, J (ORAL)

1. The present writ petition has been filed challenging the order dated 11th September, 2024 passed by the Appellate Authority, District West in Appeal No. 01 & 02/ADM(W)/Elec./2024, with further prayer to quash the order of assessment dated 20th March, 2023, issued by respondent no. 1.

2. Learned counsel appearing for the petitioner submits that the petitioner is a senior citizen of around 75 years of age and is the owner of property bearing no. C-86, Sudershan Park, Moti Nagar, New Delhi- 110015.

3. It is submitted that the petitioner had let out the aforesaid property to girls, who were pursuing higher studies, competitive exams or being employed temporarily, in Delhi. The said category of tenants, were inducted by the petitioner, with a view to safeguard the petitioner's interest, in his property, from tenants that would attempt to grab the property in view of the old age of the petitioner.

4. Thus, it is the case of the petitioner that since the property in question is being used only as a residence for girl students/professionals, no commercial activity can be said to be ongoing in the said property. He further submits that no commercial activity is being conducted by any of the petitioner's tenants, thus, the tenants who are young girls, are students/professionals, and using the

property only for the purposes of studies.

5. Per contra, learned counsel appearing for the respondent-Tata Power Delhi Distribution Limited, submits that the premises in question is being used by the petitioner for running a girls Paying Guest ("PG"), which is a commercial activity. Thus, he submits that the electricity bill was rightly raised for non-domestic use, as use of a property for PG, cannot be considered as a domestic use.

6. He submits that two meters are installed in the aforesaid premises, wherein, for one meter bearing no. 11045247, the sanctioned load is 9 Kilo Watt ("KW"), however, during the course of inspection, the connected load of 13.940 KW, was discovered.

7. He further submits that for the second meter bearing no. 11045548, the sanctioned load is 6 KW, however, during inspection, connected load of 39.905 KW, was discovered.

8. Having heard learned counsels appearing for the parties, this Court notes that vide order dated 11th September, 2024, the learned Appellate Authority, District West, in its order, whilst dealing with a challenge by the petitioner herein, to the Final Assessment Orders dated 20th March, 2023 and 24th March, 2023, has held as follows:

"xxx xxx xxx

16. It is an admitted fact that the said premises is used for the purpose of giving on rent and let out to individual girls as Paying Guest who come for higher studies and competitive examination from all over India and the electricity is being used in the premises provided by the respondent. During the inspection, it has been observed that the gym and common mess is also found running in the premises and electrical load sanctioned for the domestic category was found being unauthorizedly used for the non-domestic purposes. The said use of the premises comes under non-domestic category and is covered as unauthorized use of electricity u/s 126 of the Act, 2003 and DERC guidelines i.e., for the purpose other than for which the usage of electricity was authorized. Also, as per the terms and conditions of the prevailing Tariff Order of DERC, Paying Guests/Hostels/Schools/Colleges are given in the non-domestic category. xxx xxx xxx

19. In this case, the premises in question is not rented to girls for bonafide residential purpose as domestic use rather they are residing as Paying Guest which comes under non-domestic category as per section 126 of the Act, 2003 and DERC guidelines. As per decision of the Hon'ble Supreme Court in Union of India v. Dudh Nath Prasadmere temporary residence or residence by compulsion at a place, however long, cannot be equated or treated as a place of ordinary residence. Hon'ble Supreme Court in NDMC v. Sohan Lal Sachdeva observed that "in the case of a "guest house" the building is used for providing accommodation to "guests" who may be travelers, passengers, or such persons who may use the premises temporarily for the purpose of their stay on payment of the charges. The use for which the building is put by the

keeper of the guest house, in the context cannot be said to be for purely residential purpose."

20. In my opinion, the guests who come to the premises in question cannot be said to be staying there for residential purpose and the electricity used for them is of domestic category. It would be a different matter if the appellant had given the premises on rent to girls for stay there for a long time along with their families for residential purpose. In that case, it could be said that the premises is being used for residential purpose and electricity is being used for domestic purposes. But that is not the case here.

xxx xxx xxx"

(Emphasis Supplied)

9. Perusal of the aforesaid order clearly shows that there is a categorical factual finding by the learned Appellate Authority with respect to a PG for girls, being run by the petitioner herein, in the premises in question.

10. This Court takes note of the Tariff Order for the Financial Year ("FY") 2021-2022 as handed over by learned counsel appearing for the respondent no. 1, wherein, the domestic category as well as the non- domestic category, has been enumerated. Thus, as per the said Tariff Order for FY 2021-2022, the domestic category would include any PG, provided the premises in question have a sanctioned load up to 5 KW under the domestic category. However, as noted above, in the present case, the sanctioned load is more than 5 KW, as one meter has been sanctioned for 9 KW and the other has been sanctioned for 6 KW. Therefore, in case, there is a PG being run from the premises of the petitioner, the electricity cannot be stated to be within the domestic category in view of the said Tariff Order.

11. This Court further notes that the said Tariff Order for the FY 2021- 2022, also records the non-domestic category, which clearly stipulates the PG other than covered under the domestic category. Therefore, it is evident that the usage of electricity by the petitioner in his premises would fall within the non-domestic use.

12. Further, this Court also takes note of the submissions made by the petitioner in the present petition, wherein, the petitioner has stated as follows:

"xxx xxx xxx

5. After construction of the said property, the petitioner let out it to girls who came for higher studies, competitive exams or being employed temporarily in Delhi. With only to safeguard petitioner's interest to save his property from grabbing it by the tenants as the petitioner is a senior citizen having 75 years of age.

6. It is submitted that apart from the residence of the girls, there is no commercial activity is going on in the above said property. No commercial activity is being conducted by any petitioner's tenants as the petitioner strictly disallowed any action of activity by any of the tenants. The property, in question, was/is provided to the tenants only for studying in the property.

xxx xxx xxx"

(Emphasis Supplied)

13. Reading of the aforesaid averments in the petition itself clearly shows that the petitioner has categorically admitted that he has rented out the premises to girls, who have come for higher studies, competitive exams, or being employed temporarily in Delhi.

14. Thus, in view of the averments and the sanctioned load of the petitioner, it becomes apparent that a PG accommodation is being run by the petitioner from the premises in question.

15. This Court also takes note of the Inspection Report dated 11th January, 2023, filed by respondent no. 1, which with respect to the first meter bearing no. 11045247, categorically states that against the sanctioned load of 9 KW, the connected load is 13.940 KW. The relevant portion of the Inspection Report on record with respect to meter no. 1, is reproduced as under:

16. This Court further notes that the Inspection was conducted on 11 th January, 2023, for both the meters in the petitioner's premises. However, the Inspection Report dated 11th January, 2023 with respect to the second meter only records the meter reading of 25624 KWH. Pursuant to the same, the respondent thereafter passed the Provisional Assessment Order dated 31st January, 2023, wherein, it is recorded that for the second meter bearing no.

11045548, against the sanctioned load of 6 KW, the connected load is 39.905 KW. The relevant portion of the Inspection Report along with the Provisional Assessment Order, is reproduced as under:

"xxx xxx xxx xxx xxx xxx xxx xxx xxx"

17. This Court also takes note, that towards the said Inspection Report, respondent no. 1 passed Final Assessment Order dated 20th March, 2023 with respect to first meter bearing no. 11045247. The said Assessment Order is reproduced as under:

By:AMAN UNIYAL Signing Date:06.04.2025 16:24:32

18. Towards the second meter bearing no. 11045548, respondent no. 1 passed Final Assessment Order dated 24th March, 2023. The said Assessment Order is reproduced as under:

By:AMAN UNIYAL Signing Date:06.04.2025 16:24:32

19. Thus, in view of the Inspection Report dated 11 th January, 2023 and the Final Assessment Orders dated 20th March, 2023 and 24th March, 2023, it is manifest that when the premises of the petitioner is being used as PG, the same would fall within the non-domestic use, for which the respondent no.1 has rightly assessed the electricity as non-domestic use.

20. In view of the aforesaid, this Court is of the view that no interference is required in the factual findings as given by the Appellate Authority vide its order 11th September, 2024. The Appellate Authority has made due considerations to the contentions raised by the petitioner herein with respect to the Final Assessment Orders, and arrived at the conclusion with respect to the PG being run by the petitioner.

21. This Court further takes note of the submission made by learned counsel appearing for the petitioner that petitioner has installed solar panels in the property in question and thus, the petitioner ought to be given benefit of the same.

22. However, responding to the same it is the case on behalf of respondent no. 1, that any electricity which is generated through the solar panels, is not included in the electricity meter installed by respondent no. 1. Thus, the aforesaid submission made by learned counsel appearing for the petitioner, is baseless.

23. Considering the detailed discussion hereinabove, the present writ petition is bereft of merit, and is accordingly, dismissed.

MINI PUSHKARNA, J APRIL 2, 2025/kr