

Before the Electricity Ombudsman

(Appointed by the Joint Electricity Regulatory Commission
for the State of Goa and UTs, under Section 42 (6) of the Electricity Act, 2003)
Second Floor, HSIIDC Office Complex, Vanijya Nikunj, Udyog Vihar, Phase-V, Gurgaon (Haryana)
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Appeal No. 9/2012

Representation/ Appeal Before the Electricity Ombudsman for JERC for the State of Goa and UTs against the order dated 17.04.2012 of CGRF, Puducherry (consumer case No. 23 of 2012) by Abirami Ramakrishnan (a prospective consumer seeking new domestic service connection) at Plot No. 16, Devanathaswami Nagar, Near Thiruveni Nagar Arch, V. Manaveli, Puducherry, on the matter of 'Not effecting domestic service connection to the complainant's newly built house by EDP (Electricity Department Puducherry).

1. Abirami Ramakrishnan
Plot No. 16, Devanathaswami Nagar,
Near Thiruveni Nagar Arch,
V. Manaveli,
Puducherry- 605 110. **Appellant**

V/s

2. The Superintending Engineer-I,
Electricity Department,
No. 137, NSC Bose Salai, On behalf of Licensee **Respondent**
Puducherry- 605 001.

Hearing held at Puducherry on 12.07.2012.

Present: Shri V. K. Khanna, Electricity Ombudsman for JERC for Goa and UTs

On behalf of Appellant: Ms Abirami Ramakrishnan } 53, Thandukavan Street,
Shri C. Ramakrishnan. } V. Manaveli, Puducherry.

On behalf of the Respondent: Shri T. Gopalakrishnan, Executive Engineer-VI, EDP.
Shri Distephew Joseph, Assistant EE, EDP.
Shri G. Ramasundaram, Executive Engineer- IV, EDP.
Shri R. Radhakrishnan, Assistant Engineer-BMPT, EDP.

ORDER

25.07.2012

The above cited representation delivered in the Office of the Ombudsman on 21.05.2012 was admitted on 22.05.2012 and a copy of the same as received from the Appellant was forwarded to the Respondent on the same day with the direction to submit

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their remarks/ counterstatement on each of the points/ issues relating to the matter of this representation supported by copies of relevant documents by 01st June, 2012 with a copy of the same to the Appellant as well. The reply was received (though a little delayed as admitted by the Respondent due to administrative reasons) in the Office of Ombudsman on 11.06.2012. As informed telephonically on 06.07.2012 to the Office of Ombudsman by the Appellant a copy of this reply had not been received by her, the Respondent was directed to ensure forwarding a copy of the same to the Appellant which is reported to have been complied with by the Respondent.

Brief Facts of the case

The Appellant is an applicant – a prospective consumer seeking new domestic service connection for her newly built house at the address captioned above. She had submitted an application to EDP for the same on 19.10.2011. As submitted in her representation, there being no response, an enquiry was made with the office of JE (O&M), Villianur, when it was informed that her house has been constructed abutting the 110KV EHT line belonging to the licensee and, therefore, the same has been referred to EHV Division of EDP on 18.12.2011 for obtaining their clearance on safety angle. However, she was not given any written intimation about the status of her application till 17.02.2012. Her grievance is that EDP took four months to give the reply on status of her application. Even then without mentioning the stand of the Department on effecting electric service connection. Such action on part of the EDP as per her submission is in violation of the provisions of the Electricity Act, 2003.

Aggrieved by such a delay and not effecting domestic service connection to her house, she filed her complaint before the Consumer Grievances Redressal Forum (CGRF) of EDP on 19.03.2012 with a prayer to direct the EDP to release the electric service connection to her premises without any further delay as none of the provisions relating to safety stipulated in the CEA (Measures relating to safety and electric supply) Regulations, 2010 has been violated by the complainant.

The CGRF in its order dated 17.04.2012 held that the Complainant has carried out the construction of the building despite periodical warnings of the Electricity Department and Puducherry Planning Authority by flouting all the safety norms as prescribed under CEA (Measures relating to safety and electric supply) Regulations, 2010. CGRF also rejected the contention of the Complainant that the norms specified for horizontal clearance in the CEA (Measures relating to safety and electric supply) Regulations, 2010, need not be taken into consideration if the safety norms specified for vertical clearance are fulfilled. CGRF also held that there was no delay as such on the part of the EDP in processing her application and is not entitled for any relief or compensation on this account.

Aggrieved by this order passed by CGRF, Puducherry, the Appellant filed this Representation before the Electricity Ombudsman for JERC for the State of Goa and UTs, with the following prayer.

Prayer

1. Set aside the impugned order dated 17.04.2012 passed by CGRF, Puducherry, in case No. 23 of 2012.
2. Direct the Electricity Department Puducherry to provide electricity connection to the house of the Complainant and thus render justice.

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Settlement by Agreement

Both the parties to the dispute under this representation were informed by the Office of the Electricity Ombudsman on 04.07.2012 to appear before the Ombudsman for the hearing at 1430Hrs on 12.07.2012 at Training Hall, Technical Training Centre, Marapallam 110/22 KV, Sub- station premises, Cuddalore Main Road, Puducherry. It was indicated to both the Appellant and the Respondent to put forth and explain their position in person or by an authorised representative (not advocates), to answer all material questions and produce relevant documents relating to all the issues on the matter of this representation. It was also indicated that endeavour of the Ombudsman, in the first instance, during the hearing will be to settle the grievance through mediation or conciliation.

Both the parties appeared and were heard including the reply dated 06.06.2012 to the representation filed by the Respondent and the Appellant's rejoinder dated 12.07.2012 to this reply of the Respondent, submitted during the hearing.

Since the Appellant kept on insisting for release of service connection to her newly built house and the Respondent expressing its inability to do so in view of the safety norms not fulfilled as specified in the CEA (Measures relating to safety and electric supply) Regulations, 2010, no mutually agreeable settlement appeared possible.

Hence, the hearing continued to record the pleadings of the parties.

Pleadings by the Parties

The Appellant reiterated the grievance as detailed in her representation and submitted that the vertical clearance between the lowest point of 110KV EHT line belonging to the licensee and the tallest point of her newly constructed house for which she is seeking electricity connection is found to be more than 6.0 metres as against the vertical clearance of 4.6 metres specified in the CEA (Measures relating to safety and electric supply) Regulations, 2010 and thus satisfies the safety regulations of CEA. As the safety norms relating to vertical clearance are satisfied, the horizontal clearance between the line and her house as contended by EDP is not maintainable either legally or logically and, therefore, there may not be any legal impediment in extending power supply to her house. Her submission is that the officials of EDP as also CGRF insisting or enforcing compliance of safety norms both with respect to horizontal and vertical clearance is not the correct interpretation of CEA regulations relating to safety for electricity supply. Their stand is illogical and has put the prospective consumer to unnecessary hardship. The house built by her, in fact, satisfies all the safety norms as specified by CEA in its safety regulation. According to the submission of the Appellant the main frontage of the house is West facing and the said 110KV EHT line lies Northern side of the house. The horizontal clearance at North Eastern point of the said house in between the building point and the nearest line is 4.5 meters and the same at North- Western point is around 2.4 metres. The vertical clearance, as already submitted above, between the lowest point of the line and the tallest point in the said house is found to be more than 6.0 metres. The Appellant submitted that the Puducherry Planning Authority (PPA) to which the EDP had been referring to all along has no role to ensure electrical safety under CEA safety regulations and emphasised that the warnings given by the EDP and the PPA were duly considered by her while taking up construction of the house and due care was taken to ensure that the CEA safety norms are not violated.

The Appellant submitted that there has been undue delay in processing her application. In none of the notices issued to her by the Respondent prior to completion of the

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construction of the house, it was indicated that the power supply could not be provided to her house. Even after receipt of her application, the Respondent failed to inform her about the status of her application and kept the same pending at their end. The stand taken by the EDP and CGRF that there has been no delay in processing the application is totally false. The Respondent has violated the provisions of the Electricity Act, 2003, as also the provisions of JERC (Electricity Supply Code) Regulations, 2010 in the matter of release of new connection.

The Respondent in the course of its submissions/ replies denied the contentions of the Appellant and submitted that:

1. It was in June, 2010 that the EDP during the course of ground line patrolling of 110KV EHT Villianur- Marapalam feeder noticed that excavation work for construction of a building at plot No. 16, Devanathaswami Nagar, Near Thiruveni Nagar Arch, V. Manaveli, Puducherry belonging to Thirumathi Abirami was underway (abutting this line). A notice was immediately issued on 08.06.2010 to the owner of this site at the time of construction of basement work itself, to give 10' as horizontal clearance from the EHT lines passing at the northern side of her plot. The owner did not adhere to the request of the Department and progressed with the construction of the house. A violation notice was served on the owner on 15.06.2011 and a copy of the same was also marked to PPA with a request to stop the unauthorised construction work. PPA had also served a notice to the land owner (the Appellant here) on 30.06.2011 to stop unauthorised construction.
2. In spite of the above, the Appellant constructed the building without heeding the advice of either the EDP or PPA and made an application for domestic service connection on 19.10.2011 which was registered vide No. V-498 D. As 110KV line is passing nearer to the building, the matter was referred to Lines Sub- division on 17.02.2012 for their opinion and clearance.
3. The contention of the Appellant that the EDP took four months to reply on the status of her application has no merit as the Department had issued two notices on 08.06.2010 and 15.06.2011 on violation of the minimum safety requirement. Consciously, the Appellant was fully aware that her building is not meeting the statutory clearances.
4. The 110KV EHT double circuit line of the Department is in existence since 30.07.1982. The Appellant, who is a later entrant, has built the house nearer to this line, infringing the minimum horizontal and vertical clearances specified as per regulation 61(2) & 61 (3) of the CEA (Measures relating to safety and electric supply) Regulations, 2010.
5. The Appellant's submission that she applied for service connection after completion of construction of the house is totally false as the construction work is observed to be still in progress. The house is in incomplete stage with the stair case and head room under construction. The submissions of the Appellant with regard to horizontal clearance at North East point and North Western point are totally false and contrary to the fact. Further, the submission that the vertical clearance between the lowest point of the line and the tallest point house is found to be more than 6.0 metres is also misleading as the Appellant has not stated the means and device used for measurement of the same from the live overhead line. In fact this can be accurately measured after switching off the supply in the live line.

6. The contention of the Appellant that since the vertical clearance is satisfied, the question of horizontal clearance is not maintainable, is contrary to the fact and totally misleading. The regulations 60(1) of CEA (Measures relating to safety and electric supply) Regulations, 2010 states that ‘an overhead line shall not cross over an existing building as far as possible and no building shall be constructed under an existing overhead line’. The Appellant, as a later entrant, has flouted all safety regulations and constructed the house nearer to EHT line violating both the minimum vertical and horizontal clearance.
7. It is admitted that the building plan approval of PPA is not to be insisted upon for the purpose of extending domestic service connection. However, in this case the Appellant was advised to obtain building plan approval as she has flouted the provision under 28(5)(1) of “The Puducherry Building By Laws and Zoning Regulation 2012 as published vide GO Ms. No. 5/2012- Hg dated 05.03.2012”, wherein it has been categorically stated that the minimum horizontal and vertical clearance from EHT line is to be maintained by all buildings.
8. Following from the above, it is submitted that this case tantamounts to violation of the provisions of safety measures and, therefore, EDP’s inability to extend power supply to the applicant (the Appellant here).

Hence, the Respondent pleaded that the representation of the Complainant may be dismissed .

Issues

The issues arising from the above are:

- a. Was there a delay on the part of the licensee (the Respondent) in processing the application for new connection and intimating the applicant (the Appellant) about the status of her application?
- b. As against the claim of the applicant that the new built house for which she is seeking the domestic service connection satisfied all the safety norms as specified in the CEA regulations on Measures relating to safety and electric supply, what were the compelling factors or reasons or authenticated technical advice/ opinion that inhibited the licensee to effect release of service connection.

Findings

Before going into the above issues, it would be pertinent to refer to various provisions of the Electricity Act, 2003 on the matter relating to duties of the licensee to supply electricity on request as also the provisions contained in the JERC (Electricity Supply Code) Regulations, 2010.

Section 43(1) of the Act provides that:

“Save as otherwise provided in this act, every distribution licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply:

Provided.....”

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Further Section 48(a) of the Act on Additional terms of supply, provides that:

“ A distribution licensee may require any person who requires supply of electricity in pursuance of Section 43 of the Act to accept any restrictions which may be imposed for the purpose of enabling distribution licensee to comply with the regulations made under Section 53”.

Section 53 of the Act on the provision relating to Safety and Electricity Supply empowers the Authority (CEA) to specify suitable measures on the matters relating to safety listed therein which among others includes:

“Protecting the public (including the persons engaged in the generation, transmission or distribution or trading) from dangers arising from the generation, transmission or distribution or trading of electricity, or use of electricity supplied or installation or use of any electric line or electrical plant”, and

“Prohibiting the supply or transmission of electricity except by means of a system which conforms to the specifications as may be specified.”

Regulation 61 of the CEA (Measures relating to Safety and Electricity Supply) Regulations, 2010 is reproduced as under:

“61 Clearances from buildings of lines of voltage exceeding 650 V- (1) *An overhead line shall not cross over an existing building as far as possible and no building shall be constructed under an existing overhead line.*

(2) *Where an overhead line of voltage exceeding 650 V passes above or adjacent to any building or part of a building it shall have on the basis of maximum sag a vertical clearance above the highest part of the building immediately under such line, of not less than-*

- (i) *For lines of voltages exceeding 650 Volts upto and including 33,000 Volts* - 3.7 metres
- (ii) *For lines of voltages exceeding 33 KV* - 3.7 metres plus 0.30 metre for every additional 33,000 Volts or part thereof.

(3) *The horizontal clearance between the nearest conductor and any part of such building shall, on the basis of maximum deflection due to wind pressure, be not less than-*

- (i) *For lines of voltages exceeding 650 V upto and including 11,000 Volts.* - 1.2 metres
- (ii) *For lines of voltages exceeding 11,000V and upto and including 33,000 V.* - 2.0 metres
- (iii) *For lines of voltages exceeding 33KV* - 2.0 metres plus 0.3 metre for every additional 33 Kv or part thereof.

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(4) For High Voltage Direct Current (HVDC) system, vertical clearance and horizontal clearance, on the basis of maximum deflection due to wind pressure, from building shall be maintained as below:

Sl. No.	DC Voltage (KV)	Vertical Clearance (mtrs.)	Horizontal Clearance (mtrs)
1.	100 KV	4.6	2.9
2.	200 KV	5.8	4.1
3.	300 KV	7.0	5.3
4.	400 KV	7.9	6.2
5.	500 KV	9.1	7.4
6.	600 KV	10.3	8.6
7	800 KV	12.4	10.7

(5) Vertical and Horizontal clearances shall be as specified in schedule- X.

Explanation :- For the purpose of this regulation the expression “ building” shall be deemed to include any structure, whether permanent or temporary.”

Under JERC (Electricity Supply Code) Regulations, 2010, regulation 3.1 provides that:

“the licensee on an application by the owner or occupier of any premises, located in its area of supply, give supply of electricity to such premises within one month after receipt of application and on payment of requisite charges.

Provided.....”

Further regulation 3.5(7) of the Supply Code provides that:

“ if any information furnished in application form is found wrong or the installation is defective or the energisation would be in violation of the Act/ Electricity Rules/ Tariff order, the licensee shall reject the application with due notice to the consumer”.

As regards the first issue, it is observed that the applicant was fully aware that the house newly constructed by her is nearer or abutting the 110KV EHT lines belonging to the licensee and is in existence since 30.07.1982. Even before the applicant started construction of the house or when the work of the ground digging was in progress, the licensee had issued notice on 08.06.2010 to the owner to give atleast 10’ as horizontal clearance from EHT lines passing on the northern side of the plot which the owner (the Appellant now) deliberately ignored and progressed with the construction. Again, the licensee had issued violation notice on 15.06.2011 which the owner ignored. Even the notice served on the applicant by the Puducherry Planning Authority (PPA) on 30.06.2011 to stop unauthorised construction was ignored. Thus the applicant did not heed the advice of the licensee and that of the PPA and progressed with the construction of the house.

It is true that the application for connection on 19.10.2011 was registered by the Licensee but it took a long time to refer the matter to their Line Sub- division only on 18.12.2011 for opinion and clearance. Notwithstanding this, since the applicant has admitted of having received much in advance of her making the application for connection the violation notice from the licensee as also from PPA about unauthorised construction of the house and was consciously aware of even the impending problem in effecting release of connection by the licensee, it would not be fair on the part of the applicant to harp on the

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issue of the licensee having not responded in time on the status of her application. The grievance of the applicant (the Appellant) on this count is baseless and devoid of merit.

As for the safety norm as per the specifications laid down in the CEA (Measures relating to safety and electric supply) Regulations, 2010 being fulfilled/ satisfied or not, is concerned, it is observed that whereas the Appellant is claiming that they are satisfied without having mentioned as to which is the competent authority certifying it or even indicating the means and device used for measurement of the same from the live overhead EHT lines, the stand of the licensee (the Respondent) on the other hand is that the safety norms as specified by CEA are not met with and are not satisfied and hence their inability to effect the service connection.

In a situation like this especially on the matter involving physical verification on the ground of the specified technical parameters and requiring professional opinion which is of crucial importance for on the one hand it may deprive the prospective consumer (the Appellant) the benefit of supply of electricity and on the other any slight compromise on safety standards as per CEA regulation may be prone to major mishap and risks of injury to human and animal life or danger to property, it would have been most logical on the part of the licensee (the Respondent) to have referred the matter straightaway for opinion and technical advice to the Chief Electrical Inspector/ Electrical Inspector of Puducherry Govt. And it is only there upon that the licensee should have processed the request of the Appellant for supply and effecting release of connection.

ORDER

Based on the above, the representation of the Appellant is disposed off with the following order :-

1. The impugned order of the CGRF, Puducherry is not interfered with except on the matter relating to (satisfaction or otherwise) the safety norms specified in the CEA (Measures relating to safety and electric supply) Regulations, 2010 on which shall depend the decision for release of connection or not to the Appellant.
2. As for adjudging the safety norms, EDP (the Respondent) shall refer the matter to the Electrical Inspector of Puducherry Govt. immediately without any delay for opinion and technical advice which shall be obtained within 45 days of this order.
3. Based on the receipt of the opinion and technical advice of the Electrical Inspector as at (2) above, if the safety norms specified in the CEA (Measures relating to safety and electric supply) Regulations, 2010 are not fulfilled/ satisfied, the application of the Appellant shall straightaway be rejected and the applicant intimated; and if otherwise, the licensee (the Respondent) shall process the application for giving supply and effecting the release of service connection in terms of the relevant provisions contained in JERC (Electricity Supply Code) Regulations, 2010.

Dated: 25th Day of July, 2012

Sd/-

(V. K. Khanna)

Electricity Ombudsman for JERC for the State of Goa and UTs

Ref. File No. 1/19/2012- EO

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Forwarded to :

1. Abirami Ramakrishnan
Plot No. 16, Devanathaswami Nagar,
Near Thiruveni Nagar Arch,
V. Manaveli,
Puducherry- 605 110.
2. The Superintending Engineer-I,
Electricity Department,
No. 137, NSC Bose Salai,
Puducherry- 605 001
3. Shri T. Gopalakrishnan,
Executive Engineer-VI,
Electricity Department,
No. 137, NSC Bose Salai,
Puducherry- 605 001

Copy to:

1. The Chairman, CGRF
Electricity Department,
No. 4, 3rd Cross Street,
Sathya Nagar, New Saram,
Puducherry- 605 013.

Copy also to:

Secretary, JERC.