

BEFORE THE ELECTRICITY OMBUDSMAN
(For the State of Goa and Union Territories)
Under Section 42 (6) of the Electricity Act, 2003
3rd Floor, Plot No. 55-56, UdyogVihar - Phase IV, Sector 18,
Gurugram (Haryana) 122015,
Phone No.:0124-4684708, Email ID: ombudsmanjerc@gmail.com

Appeal No.118 of 2019

Date of Hearing: 19.02.2020 at Puducherry

Date of Order: 16.03.2020

Thiru V. Anandabaskaran

....Appellant

Versus

The Electricity Department, Puducherry
and others

....Respondent

Parties present:

Appellant

1. Thiru V. Anandabaskaran

Respondent(s)

1. Shri V. Sridharan,
Superintending Engineer (O&M),
2. Shri P. Gnanasegaran
Executive Engineer
Rural (North), O&M
3. Shri C. Mouthanandame,
Assistant Engineer
Rural North O&M
4. Shri K. Selvarajou
Junior Engineer, O&M
Ramanathapuram



Date of Order: 16.03.2020

The Appellant has preferred an Appeal against the order of CGRF, Puducherry in Consumer Case No.32/2019 dated 06.09.2019. The Appeal was admitted on 20.12.2019 as appeal No.118 of 2019. Copy of the same as received was forwarded to the respondent with a direction to submit their remarks/ counter statement on each of the points with a copy to the Appellant.

Settlement by Agreement

Both the parties appeared before the Electricity Ombudsman as scheduled on 19.02.2020 at Puducherry and were heard. However, no settlement mutually agreeable could be reached. The hearing therefore, continued to provide reasonable opportunity to both the parties to put forth their pleadings on the matter.

(A) Submissions by the Appellant:

Appellant submitted as under:-

- (i) That, 17.09.2018 on this date I filed a complaint in the Assistant Engineer Office, Sedarapet, Puducherry to disconnect the illegal OHOB service connection bearing computer code No.37-74-03-0223C existing at No.30, Mariamman koil street, Ramanathanpuram effected before three years in the name Tmt. Patchyammal w/o Kathamuthu, Ramanathapuram, Puducherry.
- (ii) From 17.09.2018 to 22.07.2019 around one year I file several complaint letter and document to support my complaint to the Assistant Engineer office and Director office, Puducherry to disconnect the illegally occupied and service connection obtained in the name of Tmt. Patchyammal w/o Kathamuthu without the consent of the owner, but they did not take any necessary action regarding my complaint.
- (iii) 23.07.2019 on this date I filed a complaint to CGRF, ED, Puducherry to disconnect the service connection obtained by Tmt. Patchyammal. The case had been registered as C.C. No.32/2019 and they arranged an



enquiry on 20.08.2019, regarding the above issue. In this they didn't made a proper enquiry and Licensee member (Jitendra rao) and Assistant Engineer (Sedarapet) acting unilaterally to support the illegal occupier and to encourage the illegal activities. For that, I made an oral complaint to the Chairman regarding the enquiry.

- (iv) 03.09.2019 on this date second and final hearing was held, as per the norms followed by the CGRF states and advocates should not allowed to come and argued inside the court premises regarding CGRF cases, however they allowed an advocate to argue and submitted the document in the court hall in front of chairman and licensee member. Afterwards they didn't make even a single enquiry and wind up the hearing regarding the cases of CC No.32/2019.
- (v) 06.09.2019 on this day the order was issued regarding the case No.32/2019 without making a single enquiry regarding the above complaint. On this order issued by the registered, Chairman, Licensee member, it was observed that page No.4, para No.9, the supporting document regarding complaint submitted by me to the CGRF, PDY was totally theft by Respondent 4 with the help of CGRF, Puducherry Officials and Assistant Engineer Sedarapet and he (Respondent4) resubmitted my RTI document to this case. For this I made an oral complaint to the office on 09.09.2019
- (vi) 09.09.2019 and 18.08.2019 on these two days I made a complaint regarding my document theft, from 09.09.2019 till now they didn't take any action regarding my complaint of document theft and they trying to hide these issues in the way of clerical error.
- (vii) The order issued in the CGRF PDY which is not related to my complaint. So, I kindly request you to take necessary action for the above complaint and arrange a proper enquiry as soon as possible. The illegal connection given in my premises are not followed any JERC rules and regulation and Puducherry electricity terms and condition.



Therefore, I kindly request you take necessary action as soon as possible to avoid the future issue like this.

(B) **Submissions by the Respondents :**

The Executive Engineer, Rural (North), O&M, on behalf of respondents submit that the complainant Thiru V. Anandabaskaran has requested to disconnect the power supply to Tmt. Patchyammal, in the disputed site claiming title to ownership which is as follows:--

- i. I respectfully submit that the appellant/ complainant, Thiru V. Anandabaskaran has requested for disconnection of power supply of OHOB service extended to Tmt. Patchyammal w/o Kathamuthu covered by Policy Code No. 37-74-03-0223C, in the disputed property. Necessary explanations called for from the rival parties (Policy holder and objector). The objector has submitted documents to substantiate his case.
- ii. I respectfully submit that Thiru. Subramanian, S/o Kathamuthu and Tmt. Patchyammal has informed that the matter is sub judice before the Hon'ble 1st Additional District Munsif at Puducherry filed by Thiru. Kathamuthu & Thiru. Subramanian against Thiru Veeramuthu @ Pavadai. wherein, the Hon'ble 1st Additional District Munsif at Puducherry by order dated 16.03.2006 was pleased to peruse the patta documents issued by the Adi Dravidar Welfare Department, Puducherry and connected records and upon perusal and satisfaction **has held that the claim of plaintiffs proved and the suit for permanent injunction restraining the defendants, his agents, men or anyone claiming through him from disturbing or interfering with plaintiff enjoyment of the suit property until evicted by due process of law and to pass.**
- iii. I respectfully submit that without prejudice to the above-mentioned court case in O.S. No. 1307/2005, and in terms of the codal provisions of the JERC (Supply Code), 2010, since the matter is sub judice before the



Legal Forum, the Distribution Licensee is bound by the orders of the Hon'ble Court.

- iv. I respectfully submit that as per proviso under sub clause 8 of Clause 5.30 of the amended JERC regulations, 2018 the extension of power supply does not confer ownership and for the apparent reasons that domestic power supply may be extended to the consumer based on ownership or by possession and enjoyment substantiated by valid legal records, the existing power supply could not be thwarted. Hence, the objector/complainant, Thiru V. Anandabaskaran, bonafidely was advised to seek remedy before the Hon'ble Court and by due process of law.
- v. I respectfully submit that aggrieved by the reply of the Respondent Department, the complainant/ appellant, Thiru V. Anandabaskaran has assailed the matter before the Hon'ble CGRF, Puducherry in CC. No. 32/2019 seeking disconnection of existing power supply provided to the existing policy holder. The Respondent has defended the matter based on the apparent factual position along with relevant records.
- vi. I respectfully submit that the Hon'ble CGRF, Puducherry in CC. No. 32/2019 by order dated 6-09-2019 was pleased to observe the following:-
 - a.) That the main dispute is ownership of the land and the Forum does not like to enter into the arguments as the Forum is not the competent authority for deciding the ownership.
 - b.) The complainant will have to take action as per law.
 - c.) In terms of section 9.1 of JERC Supply Code, 2010, since the consumer is prompt in payment, supply could not be disconnected.



d.) In terms of section 9.2 of JERC Supply Code, 2010, the Complaint is not falling under other reasons for disconnection of supply.

Hence, the Hon'ble CGRF has disposed of the matter observing that the Forum cannot issue any directions to the Official Respondents for disconnection of the existing OHOB service connection in the name of Tmt. Patchyammal.

- vii. I respectfully submit that aggrieved by the order of the Hon'ble CGRF, Puducherry in CC. No. 32/2019, the complainant/appellant has filed the present appeal with the same averments under different footing, casting aspersion upon the Chairperson of the Hon'ble CGRF and the Assistant Engineer of the jurisdiction.
- viii. I respectfully submit that in compliance with the instructions of the Hon'ble Ombudsmen by Notice / Order dated 26-12-2019 received at this end on 31-12-2019, the Complainant was called upon for hearing on 13-01-2020 for consensus and mutual agreement within the parameters of law and codal provisions. However, the complainant has not turned-up for hearing on 13-01-2020.
- ix. I respectfully submit that as per the JERC regulations, powers of the Electricity Department/Distribution Licensee is limited to the extent of proving of basic amenity of Electricity for domestic purpose and as per the guidelines of Hon'ble Supreme Court, in respect of extension of power supply to domestic category a lenient view is required to be taken which is also deemed to be a right to live under Article 21 of the Constitution of India.
- x. I respectfully submit that the codal provisions of JERC Supply Code provides for extension of power supply to the owner of land or person in actual possession and enjoyment of the house property and extension of power supply does not confer ownership of land. In the above context, the Electricity Department bonafidely considering applications for



extension of power supply to the applicant/consumer, based on certain proof documents substantiating ownership/possession.

- xi. I respectfully submit that In the present case, as per the available official records Tmt. K. Patchayamal is the existing policy holder code No.37-74-03-0223C/A3 and is promptly remitting the dues till date. The said Tmt. K. Patchayamal (present policy holder) and her son Subramanian are living in the said house as per the field inspection of the JE Ramanathapuram O&M.
- xii. I respectfully submit that the complainant/appellant, Thiru V. Anandabaskaran is requesting for disconnection of power supply of the house resided to Tmt. Patchyammal and Thiru. K. Subramanian. As per the amended JERC Regulation supply code 2018, disconnection of existing power supply could be made by the Electricity Department only upon certain conditions prescribed under clause 9 of JERC supply code wherein the Jurisdictional Engineer may effect disconnection either on non payment of dues, illegal activity in the premises, defective of electrical installations in the premises, consumer misuse the power supply and non available for meter reading for two or more billing cycles, etc.,. Further, based upon the consumer itself or if any violations committed and any eviction order issued by the competent authority, power supply can be disconnected.
- xiii. I respectfully submit that if the contention of the complainant regarding land grabbing has been proved, then action for eviction proceedings against the unauthorised occupant under Public Premises (Eviction of Unauthorised Occupants) Act, 1971 is to be taken and only upon such circumstances any further action could be made by the Electricity Department as per the law. Until then, the Electricity Department cannot disconnect the power supply in violation of supply code.
- xiv. I respectfully submit that the Respondent denies all the contentions made by the complainant except those which are specifically admitted and no mala fide or willful intention could be cast upon the officials of the



Electricity Department, since the power supply was originally extended in the name of present policy holder, to Tmt. Patchyammal, W/o. Thiru. Kathamuthu, who has occupied at that place and it also clearly mentioned in the complainant's letter dated 17-09-2018.

- xv. I respectfully submit that the Respondent department bonafidely extended power supply to the present policy holder as per the supply code and will abide by any order of this Hon'ble Ombudsman in the interest of justice.

(C) **CGRF order dated 06.09.2019, preferred for Appeal:**

Consumer Grievances Redressal Forum, Puducherry in its order dated 06.09.2019 has decided as under:-

“

1. **OBSERVATIONS:**

The hearing in the case was fixed for 06.09.2019.

- (i) On perusal of the documents submitted by the Complainant and counter filed by the Respondent it is observed that the Adidravidar welfare Corporation has allocated land in the name of Thiru Veeran on 26.01.1973 i.e. more than 45 years back. Whereas the complainant had sought disconnection of power supply in 2018. As per the reply given by the Executive Engineer Rural North O&M to the complainant under RTI, the service was effected before 25 years. As per the document produced by the Respondent, the house tax was paid right from the year 2000-2001 i.e. the house in existence for a period more than 20 years and the house is not a new construction.
- (ii) From the above observation the Forum is of the opinion that the main case in the present petition is only the land dispute, and the disconnection of service is being sought only for vacating the tenants.



2. **ORDER:**

As observed in the previous paras main dispute is ownership of the land and the Forum does not like to enter into the arguments as the Forum is not the competent authority for deciding the ownership. The Complainant will have to take action as per law. It is informed that regarding disconnection of power supply to the existing consumer could be done as per Section 9.1 and 9.2 of JERC Supply Code, 2010 which is reproduced below:


9.1 Disconnection due to non-payment of bill amount:

Where a person neglects to pay any charge for electricity or any other sum due from him to a Licensee, by the due date mentioned in the bill, in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee may, after giving not less than fifteen (15) clear days notice in writing to such person, without prejudice to his rights to recover such charge or other sum due by suit, cut off supply of electricity, until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid.

9.2 Disconnection on other reasons:

The licensee may also disconnect power supply to a consumer on any of the following grounds after serving proper notice as per Annexure - 3

- (1) *At the request of consumer*
- (2) *Mandated the Licensee to do so by a person with legal authority to issue such notice.*



- (3) *Entitled the Licensee to do so under an agreement with the consumer.*
 - (4) *The Licensee reasonably believes that the consumer has contravened any of the provisions of this code, which entitle the Licensee to disconnect the supply.*
 - (5) *If the Licensee reasonably believes that failure to disconnect may or likely to cause a health hazard or safety risk or damage to property or to the consumer or to any other person; such as excessive leakage current as provided under 49 of the I.E. Rules, 1956.*
 - (6) *If the Licensee reasonably believes that the consumers installation does not satisfy the applicable rules or any other reasonable requirements prescribed by the Licensee.*
 - (7) *If the security deposit provided by the consumer has become insufficient or the consumer has to provide additional security deposit, which the consumer has failed to deposit within time limit prescribed.*
 - (8) *If default in payment or detection of theft of electricity under Regulation 10.3 (e)(i) and Regulation 10.5 (a) (vii) respectively supply will be disconnected immediately without giving notice.*
 - (9) *For not providing access to the Licensee or its authorized representative under Regulation 4.12 (4).*
 - (10) *Where any consumer having more than one connection defaults in payment of dues relating to one of the connections.*
- (i) Since the consumer is prompt in payment, supply could not be disconnected under Section 9.1 and the request of the complainant is



not falling under other reasons mentioned under Section 9.2 of the Supply Code 2010. Hence the Forum cannot issue any directions to the Respondent 1, 2 and 3 for disconnection of the existing O.H.O.B service connection in the name of toTmt. Patchyammal.

(ii) Thus, the Complaint is dismissed in view of the reasons stated above.

(D) **Deliberations during hearing at Puducherry:**

Appellant submission

- (a) The Appellant reiterated his version as submitted in appeal. He admitted that Tmt. Patchyammal I, W/o. Thiru. Kathamuthu, *is occupying some piece of their land for the last more than 20 years but no electricity connection should be released in the name of Tmt. Patchyammal, the alleged occupier.*
- (b) During hearing Appellant submitted that he has not received the respondents reply and therefore he has been denied the opportunity to counter the respondents. On the other hand, respondents claimed that they have send the counter reply to Appellant through post.
- (c) Any how to protect the Appellant's right to put forth his defend to the reply of respondents, a time of 10 days was allowed vide order dated-19.02.2020, a copy of which was sent through email dated-21.03.2020, as well as by post.
- (d) The Appellant submitted his defend to the counter reply of respondents vide email dated-02.03.2020 and denied all the averments made by the Respondents in the reply, except those that are expressly admitted.



The Appellant submitted his counter defense to the reply of respondent vide email dated-28/02/2020 which is reproduced below:-

R.SE: The Executive Engineer - Rural North O&M, Electricity Department Puducherry, the jurisdictional Engineer conversant with the case on behalf of Superintending Engineer-Cum HOD, submit that the complainant Thiru V. Anandabaskaran, No.5, Meenakshi Amman Nagar, Thondamanatham, Puducherry - 605 502, has requested to disconnect OHOB power supply extended to Tmt. Patchyammal, W/o Thiru. Kathamuthu, Ramanathapurampet, Puducherry in the disputed site claiming title to ownership, which is as follows:

C.AN: I respectfully submit that the respondent, Executive Engineer- Rural North O & M, Electricity Department, Puducherry, the jurisdictional Engineer conversant with the case on behalf of Superintending Engineer-Cum HOD, submitted that the case belongs to claiming title suite to the ownership of the disputed title and to disconnect the OHOB power supply extended Tmt. Patchyammal w/o Kathamuthu.

Real complaint of the case Appeal No. 118 of 2019 is as follows:

1. The OHOB power supply connection was not given as per the procedure followed in the JERC supply code or Puducherry Electricity Department terms and condition?
2. The documents submitted to the CGRF, PDY was theft (stolen) by Respondent 4 (Subramanian) with the help of some official in CGRF and respondent in the case.
3. Official from Electricity Department and CGRF Staff acting unilaterally and encouraging the illegal activities and connection to the illegal occupier.
4. The order issued by CGRF PDY Which is not related to my complaint (CC NO 32/2019) and Proper Enquiry was not conducted in the cases.



5. CGRF PDY official violate the JERC procedure and allowed an advocate for argument in court premises in the case no(CC.NO, 32/2019)

The respondent was trying to hide all the information in the appeal no 118/2019 and CC.NO. 32/2019 and diverting these case into some other direction.


R.SE:1. I respectfully submit that the appellant/ complainant, Thiru. V. Anandhabaskaran, No.5, Meenakshi Amman Nagar, Thondamanatham, Puducherry has requested for disconnection power supply of OHOB service extended Tmt. Patchyammal w/o Kathamuthu, No. 30, Mariamman Koil Street, Ramanathapurampet, Puducherry – 605502 covered by Policy Code No. 37-74-03-0223C, in the disputed property. Necessary explanations called for from the rival parties (Policy holder and objector). The objector has submitted documents to substantiate his cause.

C.AN: I respectfully submit that the respondent, Executive Engineer- Rural North O & M, Electricity Department, Puducherry, the jurisdictional Engineer conversant with the case on behalf of Superintending Engineer-Cum HOD, submitted in the above paragraph that Necessary explanations called for from the rival parties (Policy holder and objector). The objector has submitted documents to substantiate his cause.

Real thing is

Several stages of complaint lodged from JE, AE, EE, SE and collection of RTI information regarding complaint status. After that the called rival parties (Policy holder and objector) for necessary explanation.

R. SE. 2. I respectfully submit that Thiru. Subramanian, S/o Kathamuthu and Tmt. Patchyammal has informed that the matter is sub judice before the Hon'ble 1st Additional District Munsif at Puducherry filed by Thiru. Kathamuthu & Thiru. Subramanian against Thiru Veeramuthu @ Pavadai. wherein, the Hon'ble 1st Additional District Munsif at



Puducherry by order dated 16.03.2006 was pleased to peruse the patta documents issued by the Adi Dravidar Welfare Department, Puducherry and connected records and upon perusal and satisfaction has held that the claim of plaintiffs proved and the suit for permanent injunction restraining the defendants, his agents, men or anyone claiming through him from disturbing or interfering with plaintiff enjoyment of the suit property until evicted by due process of law and to pass.

C.AN: I respectfully submit that the respondent, Executive Engineer- Rural North O & M, Electricity Department, Puducherry, the jurisdictional Engineer conversant with the case on behalf of Superintending Engineer-Cum HOD, submitted in the above paragraph that the matter is subjudice before the 1st ADM at Puducherry and received an permanent injunction order date 16.03.2006.

Real thing is

The case no O.S.1307/2005 which is not related to my property. 10.10.2018 on this day I submitted the reply counter for the letter submitted by the Subramnian to the Assistant Engineer regarding the case no 1307/2005. In this I had proven that the case which is not related to my complaint. I submitted the entire document related to the case no O.S.1307/2005.

I submit the collector court order to the CGRF in the case no 32/2019. In the order dated 16.07.2019 has been passed and the gist of the order is as follows:

“Therefore, it is advised Thiru Subramanians/o Kathamuthu to identify the property mentioned in the decree by the Honourable court in O.S.no 1307/2005 dated 16.03.2006 and peacefully handover the property situated at R.S.NO 52/11, Cadastre no ,919 pt of Ramanathapuram revenue village with an total extent of 00.01.30 H.A.C. to Thiru Veeramuthu @ pavadai s/o veeran (Legal heir of Thiru Veeran s/o Teli)”.

The detailed scheduled of the property is as follows:



Sl. No	Detailed of the Property	OS. 1307/2005	My Property
01	OWNER NAME	VEERAN S/O Thillaiayan	Veeran s/o teli
02	R.S.NO	53/6	52/11
03	BOUNDARIES	NORTH- Ramakrishna reddiyar land	North- Ramakrishna reddiar land
		East – road South – road West - Kasinathan	East – kasinathan house South – road West- road
04	Plot area;	1000 feet	1398.8 sq.feet
05	Address	No 29 mariamman koil street, ramanathapuram	O.NO 32&N.No 30 mariamman koil street, ramanathapuram

I respectfully submitted that the permanent injunction ordered should not consider as a title suite ownership of the property as per the guideline of the Supreme Court.

R.SE: 3. I respectfully submit that without prejudice to the above mentioned court case in O.S. No. 1307/2005, and in terms of the codal provisions of the JERC (Supply Code), 2010, since the matter is sub judice before the Legal Forum, the Distribution Licensee is bound by the orders of the Hon'ble Court.

C.AN: I respectfully submit that the respondent, Executive Engineer- Rural North O & M, Electricity Department, Puducherry, the jurisdictional Engineer conversant with the case on behalf of Superintending Engineer-Cum HOD, submitted in the above paragraph that since the matter is sub judice before the Legal Forum, the Distribution Licensee is bound by the orders of the Hon'ble Court.

Real thing is:



C.C NO 32/2019 and appeal no 118/2019 should not be applicable to the case no O.S.1307/2005 and in terms of codal provision of JERC Supply code 2010. Since the matter is not coming under sub judice before the Legal Forum.

The distribution of licensee should violate the codal provision followed by Electricity department from 1993, electricity act 2003, supply code 2010 and supply code 2018.

R.SE. 4. I respectfully submit that as per proviso under sub clause 8 of Clause 5.30 of the amended JERC regulations, 2018 the extension of power supply does not confer ownership and for the apparent reasons that domestic power supply may be extended to the consumer based on ownership or by possession and enjoyment substantiated by valid legal records, the existing power supply could not be thwarted. Hence, the objector/complainant, Thiru V. Anandhabaskaran, bonafidely was advised to seek remedy before the Hon'ble Court and by due process of law.

C.AN: I respectfully submit that the respondent, Executive Engineer- Rural North O & M , Electricity Department, Puducherry, the jurisdictional Engineer conversant with the case on behalf of Superintending Engineer-Cum HOD, submitted in the above paragraph that under sub clause 8 of Clause 5.30 of the amended JERC regulations, 2018 the extension of power supply does not confer ownership and for the apparent reasons that domestic power supply may be extended to the consumer based on ownership or by possession and enjoyment substantiated by valid legal records, the existing power supply could not be thwarted.

Real thing is

C.C NO32/2019 and appeal no 118/2019 cases, the existing connection should not followed any codal provision/terms and condition from the year of 1993, electricity act 2003, supply code 2010, and 2018. Under sub clause 1 to 7 of Clause 5.30 of the amended JERC regulations, 2018 the extension of power supply could be followed



under certain condition for the acceptable proof of ownership or occupancy of premises. The details of the sub clause 1 to 7 of clause 5.30 is as follows

1. Copy of the registered sale deed or lease deed or rent agreement
2. Registered general power of attorney
3. Municipal / panchayat tax receipt or Demand notice or any other related document
4. Letter of allotment
5. Copy of the house registration certificate issued by the panchayat/ownership certificate issued by revenue authorities
6. Any other ownership related document issued by the local government authority
7. An applicant who is not an owner but an occupier of the premises shall , along with any one of the documents listed (1) to (6) above, also furnish a no objection certificate from owner of premises.

The existing connection in the name of Tmt. Patchyammal should not follow the codal provision followed by Electricity department from year of 1993, electricity act 2003, supply code 2010 and supply code 2018. Hence I request the honorable ombudsman existing connection should not applicable any of the codal provisions followed by the JERC and Terms and condition followed by the Puduucherry Electricity department, hence I request that disconnect the existing OHOB service connection in the name of Tmt. Patchyammal at my premises to avoid the illegal activities and to stop encouraging the these type of activities in future.

R.SE 5. I respectfully submit that aggrieved by the reply of the Respondent Department, the complainant/appellant, Thiru V. Anandhabaskaran has assailed the matter before the Hon'ble CGRF, Puducherry in CC. No. 32/2019 seeking disconnection of existing power supply provided to the existing policy holder. The Respondent has defended the matter based on the apparent factual position along with relevant records.

C.AN: I respectfully submit that the respondent, Executive Engineer- Rural North O & M, Electricity Department, Puducherry, the jurisdictional



Engineer conversant with the case on behalf of Superintending Engineer-Cum HOD, submitted in the above paragraph that the matter based on the apparent factual position along with relevant records.

Real thing is

The OHOB service connection existing in the name of Tmt.Pachaiyammal was given in my premises was three years back 2017-18.The official from the electricity are trying to hide the documents regarding the existing connection. After thirty years once, the Government records of Puducherry was transferred from the office to storage section. The official from the electricity department are forgot to act neutrally and acting unilaterally to encouraging the illegal activities and trying to hide all the information. If these illegal activities are encourage, every one do the same activities in future.

I request honorable ombudsman, disconnect the illegal service connection and to take necessary action to the official who acting unilaterally and encouraging the illegal activities.

R.SE 6. I respectfully submit that the Hon'ble CGRF, Puducherry in CC. No. 32/2019 by order dated 6-09-2019 was pleased to observe the following :-

- (i) That the main dispute is ownership of the land and the Forum does not like to enter into the arguments as the Forum is not the competent authority for deciding the ownership.
- (ii) The complainant will have to take action as per law.
- (iii) In terms of section 9.1 of JERC Supply Code, 2010, since the consumer is prompt in payment, supply could not be disconnected.
- (iv) In terms of section 9.2 of JERC Supply Code, 2010, the Complaint is not falling under other reasons for disconnection of supply.

Hence, the Hon'ble CGRF has disposed the matter observing that the Forum cannot issue any directions to the Official Respondents for disconnection of the existing OHOB service connection in the name of Tmt. Patchyammal.



C.AN. I respectfully submit that the respondent, Executive Engineer- Rural North O & M, Electricity Department, Puducherry, the jurisdictional Engineer conversant with the case on behalf of Superintending Engineer-Cum HOD, submitted in the above paragraph that main dispute is ownership of the land and the Forum does not like to enter into the arguments as the Forum is not the competent authority for deciding the ownership.

Real thing is

Real complaint of the case C.C NO 32 of 2019 is as follows:

1. The OHOB power supply connection was not given as per the procedure followed in the JERC supply code or Puducherry Electricity Department terms and condition?
2. Official from Electricity Department and Assistant Engineer acting unilaterally and encouraging the illegal activities and given connection to the illegal occupier.
3. The order issued by CGRF PDY Which is not related to my complaint (CC NO 32/2019) and Proper Enquiry was not conducted in the cases.

CGRF PDY official violate the JERC procedure and allowed an advocate for argument in court premises in the case no(CC.NO, 32/2019)

The respondent was trying to hide all the information in the CC.NO. 32/2019 and diverting this case into some other direction.

R.SE 7. I respectfully submit that aggrieved by the order of the Hon'ble CGRF, Puducherry in CC. No. 32/2019, and the complainant/appellant has filed the present appeal with the same averments under different footing, casting aspersion upon the Chairperson of the Hon'ble CGRF and the Assistant Engineer of the jurisdiction.

C.AN I respectfully submit that the respondent, Executive Engineer- Rural North O & M, Electricity Department, Puducherry, the jurisdictional Engineer conversant with the case on behalf of Superintending



Engineer-Cum HOD, submitted in the above paragraph that the complainant/appellant has filed the present appeal with the same averments under different footing, casting aspersion upon the Chairperson of the Hon'ble CGRF and the Assistant Engineer of the jurisdiction.

Real complaint of the case Appeal No. 118 of 2019 is as follows:

1. The OHOB power supply connection was not given as per the procedure followed in the JERC supply code or Puducherry Electricity Department terms and condition?
2. The documents submitted to the CGRF, PDY was theft(stolen) by Respondent 4 (Subramanian) with the help of some official in CGRF and respondent in the case.
3. Official from Electricity Department and CGRF Staff acting unilaterally and encouraging the illegal activities and connection to the illegal occupier.
4. The order issued by CGRF PDY Which is not related to my complaint (CC NO 32/2019) and Proper Enquiry was not conducted in the cases.
5. CGRF PDY official violate the JERC procedure and allowed an advocate for argument in court premises in the case no(CC.NO, 32/2019)

The respondent was trying to hide all the information in the appeal no 118/2019 and CC.NO. 32/2019 and diverting this case into some other direction.

R.SE 8. I respectfully submit that in compliance with the instructions of the Hon'ble Ombudsmen by Notice / Order dated 26-12-2019 received at this end on 31-12-2019, the Complainant was called upon for hearing on 13-01-2020 for consensus and mutual agreement within the parameters of law and codal provisions. However, the complainant has not turned-up for hearing on 13-01-2020.

C. AN I respectfully submit that the respondent, Executive Engineer- Rural North O & M , Electricity Department, Puducherry, the jurisdictional Engineer conversant with the case on behalf of Superintending Engineer-Cum HOD, submitted in the above paragraph that the Complainant was called upon for hearing on 13-01-2020 for consensus



and mutual agreement within the parameters of law and codal provisions. However, the complainant has not turned-up for hearing on 13-01-2020.

Real thing is

From instructions of the Hon'ble Ombudsmen by Notice / Order dated 26-12-2019 received at this end on 31-12-2019, they didn't sent any letter/notice to me to called upon for hearing on 13-01-2020 for consensus and mutual agreement within the parameters of law and codal provisions.

R.SE 9. I respectfully submit that as per the JERC regulations, powers of the Electricity Department/Distribution Licensee is limited to the extent of proving of basic amenity of Electricity for domestic purpose and as per the guidelines of Hon'ble Supreme Court, in respect of extension of power supply to domestic category a lenient view is required to be taken which is also deemed to be a right to live under Article 21 of the Constitution of India.

C.AN. I respectfully submit that the respondent, Executive Engineer- Rural North O & M, Electricity Department, Puducherry, the jurisdictional Engineer conversant with the case on behalf of Superintending Engineer-Cum HOD, submitted in the above paragraph that as per the JERC regulations, powers of the Electricity Department/Distribution Licensee is limited to the extent of proving of basic amenity of Electricity for domestic purpose and as per the guidelines of Hon'ble Supreme Court.

Real thing is

As per the guideline honorable Supreme Court says in some cases extent of power supply is the basic amenity only in the public property, if the extent of power supply to private property to the occupier or owner, it should follow certain condition as per the guidelines of JERC Supply code.



Article 21 right to live of the constitution of India, its clearly said that electricity is basic amenity but it should follow certain condition public and private property.

Based on Supreme Court guidelines, JERC regulation provide certain condition for extent of power supply to the Public and private property.

From the above cases C.C NO 32/2019 and Appeal No 118/2019 states that, Property belongs to a private property. I am the proper legal heir of the property. Patchaiammal and Subramanian both of them is illegal occupier and also they didn't prove any ownership for the above cases during the enquiry of C.C No 32/2019.

As per the guideline of Supreme Court, JERC supply code, terms and condition followed from 1993 to 2018, the connection given in my Premises it was proven that it was an illegal. So I kindly request to the honorable, disconnect the illegal connection given in my premises and also take necessary action who acting unilaterally in the above cases to avoid future issues like this.

R.SE 10. I respectfully submit that the codal provisions of JERC Supply Code provides for extension of power supply to the owner of land or person in actual possession and enjoyment of the house property and extension of power supply does not confer ownership of land. In the above context, the Electricity Department bonafidely considering applications for extension of power supply to the applicant/consumer, based on certain proof documents substantiating ownership/possession.

C.AN: I respectfully submit that the respondent, Executive Engineer- Rural North O & M, Electricity Department, Puducherry, the jurisdictional Engineer conversant with the case on behalf of Superintending Engineer-Cum HOD, submitted in the above paragraph that the codal provisions of JERC Supply Code provides for extension of power supply to the owner of land or person in actual possession and enjoyment of the house property.

Real thing is



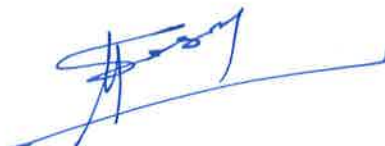
The codal provision of JERC Supply code does not states that extension of power supply to the owner of land or person in actual possession and enjoyment of the property. Respondent trying to hide certain information regarding the sub clause of 1 to 8 of clause 5.30 of the amended JERC regulations 2018 for the extension of power supply. In the above context, Electricity Department violate the codal provision of JERC supply code for the extension of power supply and giving false statement in the affidavit.

R.S.E 11. I respectfully submit that In the present case, as per the available official records Tmt. K. Patchayamal is the existing policy holder code No. 37-74-03-0223C/A3 and is promptly remitting the dues till date. The said Tmt. K. Patchayamal (present policy holder) and her son Subramanian are living in the said house as per the field inspection of the JE Ramanathapuram O&M.

C.A.N I respectfully submit that the respondent, Executive Engineer- Rural North O&M, Electricity Department, Puducherry, the jurisdictional Engineer conversant with the case on behalf of Superintending Engineer-Cum HOD, submitted in the above paragraph that Tmt. K. Patchayamal (present policy holder) and her son Subramanian are living in the said house as per the field inspection of the JE Ramanathapuram O&M.

Real thing is

From the year of 2000 Kathamuthu (Patchaiyammal husband) received a patta land during the month of November 2000 from the Department of Adi dravidar welfare, Puducherry through political influence at mariamman koil street Ramanathapuram (which is located below 100m from the disputed land) comprised in R.S.No 57/148 and constructed a pucca R.C.C house in the said patta and thereby permanently residing in the said premises without any disturbances from any quarters, however patchaiammal and Subramanian are withholding the disputed property by keeping some waste utensils and unwanted things/ materials in the disputed premises. Patchaiammal and Subramanian hold over in possession of the house at no 30



mariamman koil street, Ramanathapuram, puducherry, but in reality both of us residing at R.S No. 57/148 of mariamman koil street, Ramanathapuram, puducherry.

R.S.E 12. I respectfully submit that the complainant/appellant, V. Anandhabaskar is requesting for disconnection of power supply of the house resided by Tmt. K. Patchayamal and Thiru. K. Subramanian. As per the amended JERC Regulation supply code 2018, disconnection of existing power supply could be made by the Electricity Department only upon certain conditions prescribed under clause 9 of JERC supply code wherein the Jurisdictional Engineer may effect disconnection either on nonpayment of dues, illegal activity in the premises, defective of electrical installations in the premises, consumer misuse in the power supply and non-available for meter reading for two or more billing cycles, etc. Further, based upon the consumer itself or if any violations committed and any eviction order issued by the competent authority, power supply can be disconnected.

C.A.N I respectfully submit that the respondent, Executive Engineer- Rural North O & M , Electricity Department, Puducherry, the jurisdictional Engineer conversant with the case on behalf of Superintending Engineer-Cum HOD, submitted in the above paragraph that disconnection of existing power supply could be made by the Electricity Department only upon certain conditions prescribed under clause 9 of JERC supply code wherein the Jurisdictional Engineer may effect disconnection either on nonpayment of dues, illegal activity in the premises, defective of electrical installations in the premises, consumer misuse in the power supply and non-available for meter reading for two or more billing cycles, etc.,. Further, based upon the consumer itself or if any violations committed and any eviction order issued by the competent authority, power supply can be disconnected.

Real thing is



The existing power supply received in my premises in the name Tmt. Patchyammal as violate the codal provision, regulation of JERC and terms and condition of the Puducherry electricity followed from the year of 1993 to 2018.

Using these electricity service connection and other facilities, several illegal activities like misusing the electricity connection, cheating the government official from the department of Electricity, Adi dravidar welfare department, Civil supply office, police department, robbery, document theft, gold ornament theft and the complaint filed in Moolakulam police station, threatening, creation of fraudulent document, attempt murder etc. These activities are happened because of enjoying the basic amenities in the disputed premises with the support of official and political influence.

R.S.E 13. I respectfully submit that if the contention of the complainant regarding land grabbing has been proved, then action for eviction proceedings against the unauthorised occupant under Public Premises (Eviction of Unauthorised Occupants) Act, 1971 is to be taken and only upon such circumstances any further action could be made by the Electricity Department as per the law. Until then, the Electricity Department cannot disconnect the power supply in violation of supply code.

C.A.N: I respectfully submit that the respondent, Executive Engineer- Rural North O & M , Electricity Department, Puducherry, the jurisdictional Engineer conversant with the case on behalf of Superintending Engineer-Cum HOD, submitted in the above paragraph that the contention of the complainant regarding land grabbing has been proved, then action for eviction proceedings against the unauthorised occupant under Public Premises (Eviction of Unauthorised Occupants) Act, 1971 is to be taken and only upon such circumstances any further action could be made by the Electricity Department as per the law. Until then, the Electricity Department cannot disconnect the power supply in violation of supply code.

Real thing is



The existing connection in the name of Tmt. Pachiammal was not given as per the regulation and codal provision followed by JERC,SUPPLY CODE 2010,2018, ELECTRICITY ACT 2003, TERMS AND CONDITION (from 1993 to 2020)Followed by the Puducherry Electricity department. The connection was given illegally. Unauthorises occupant act 1971 should not applicable for private property. For private property, as per the guidelines of the supreme court , JERC frame a codal provision and procedure. The existing connection should not follow any procedure from the year of 1993 to 2020. The respondent hide all the information and diverting these cases in to some other direction.

R.S.E: 14. I respectfully submit that the respondent denies all the contentions made by the complainant except those which are specifically admitted and no mala fide or willful intention could be cast upon the officials of the Electricity Department, since the power supply was originally extended in the name of present policy holder, Tmt. K. Patchayamal, W/o. Thiru. Kathamuthu, who has occupied at that place and it also clearly mentioned in the complainant's letter dated 17-09-2018.

C.A.N: I respectfully submit that the respondent, Executive Engineer- Rural North O & M , Electricity Department, Puducherry, the jurisdictional Engineer conversant with the case on behalf of Superintending Engineer-Cum HOD, submitted in the above paragraph that the respondent denies all the contentions made by the complainant except those which are specifically admitted and no mala fide or willful intention could be cast upon the officials of the Electricity Department, since the power supply was originally extended in the name of present policy holder, Tmt. K. Patchayamal, W/o. Thiru. Kathamuthu, who has occupied at that place and it also clearly mentioned in the complainant's letter dated 17-09-2018.

Real thing is

The respondent hide all the information given in the complaint and diverting this cases into some other direction. The appeal case originally belongs to illegal



connection, document theft with the help of CGRF and department staff, official acting unilaterally, violate the CGRF COURT procedure etc. The existing connection given in the name of Tmt. Patchyammal was illegally with the help of influence from the Department and politician etc.

R.S.E 15. I respectfully submit that the respondent department bonafidely extended power supply to the present policy holder as per the supply code and will abide by any order of this Hon'ble Ombudsman in the interest of justice.

C.A.N: I respectfully submit that the respondent, Executive Engineer- Rural North O & M, Electricity Department, Puducherry, the jurisdictional Engineer conversant with the case on behalf of Superintending Engineer-Cum HOD, submitted in the above paragraph that the respondent department bonafidely extended power supply to the present policy holder as per the supply code.

Real thing is

The extend of power supply was not given as per the regulation and codal provision followed in the supply code. The supply code clause 5.30 clearly states that

1. Copy of the registered sale deed or lease deed or rent agreement
2. Registered general power of attorney
3. Municipal / panchayat tax receipt or Demand notice or any other related document
4. Letter of allotment
5. Copy of the house registration certificate issued by the panchayat/ownership certificate issued by revenue authorities
6. Any other ownership related document issued by the local government authority
7. An applicant who is not an owner but an occupier of the premises shall , along with any one of the documents listed (1) to (6) above , also furnish a no objection certificate from owner of premises.

The legal officer from the Electricity department clearly mentioned in the legal opinion states that disconnection of existing connection



In paragraph 3, Dated 03.07.2019 state that

“The Powers of distribution license are limited to the extension of power supply as per the codal provision and disconnection are permissible only in the case of contingencies arising out of unpaid dues or any violation of codal provisions”.

The existing connection in the name of Tmt. Patchyammal also belongs to violation codal provision from the year of 1993 to 2020. So I submit this matter to the honorable ombudsman, disconnect the illegal connection given in my premises to stop future problem like these type of issue in Puducherry. Otherwise every one violates the codal provision and gets electricity connection in anywhere and in any private property.

It is therefore prayed to disconnect the existing illegal connection to stop the future illegal activities. Otherwise every official and everyone in the country can do this illegal activities and there is no use of framed the JERC and codal supply if this case was dismissed.

2. Respondent submission:

- a. The respondents reiterated their version as submitted in reply to the appeal and requested to dismiss the appeal.
- b. The respondents also confirmed during hearing that Electricity Connection was existing in the name of Tmt. Patchyammal under OHOB (one Hut one Bulb scheme) before year 2000 and Appellant never objected it. After 18 years i.e. in 2018 he objected & requested to disconnect.
- c. Accordingly, they have acted in accordance with Act, Rules as applicable from time to time.



(E) Findings and Analysis:-

- (i) I have perused the documents on record and pleadings of the parties. The main grudge of Appellant is :-
- (a) To cancel the Electricity connection given to the occupier, in the name of Tmt. Patchyammal, W/o. Thiru. Kathamuthu.
- (b) His further objection is that the existing connection in his premises in the name of Tmt. Pachaiammal has been granted in violation of the guideline of Supreme Court, the codal provision, regulation of JERC and terms and condition of the Puducherry electricity followed from the year of 1993 to 2020, in a biased and arbitrary manner, despite his complaints from 17.09.2018 to 22.07.2019 (around one year) to the Electricity Department, Puducherry .
- (c) The court case no O.S.1307/2005 is not related to his property.
- (ii) The case has been examined in view of various provisions of Electricity Act, 2003 and Supply Code and various judgments of Hon'ble Apex Court and High Courts as detailed herein under:-
- (a) Section 43 of Electricity Act, 2003 provides as under:

“ Section 43 (Duty to supply on request): -
1[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.”



Therefore electricity connection can be given to an occupier as per Section-43 of Electricity Act, 2003.

- (iii) Hon'ble High Court at Calcutta Circuit Bench at Port Blair in its Constitutional Writ Jurisdiction disposed of the Writ Petition No.-423 of 2010, clearly deciding as under: -

“ We therefore hold that a person in settled possession of a property as illustrated in the case of Rama Gowda (Supra) is free to apply for supply of electricity without consent of the owner of the same and is entitled to get electricity connection and enjoy the same until he is evicted by the due process of law.

We, have already pointed out that either in the Electricity Act, 2003 or in this Rules of 2006, there is no procedure prescribed for resolving the dispute as to the status of an occupier in the property over which the electricity is sought to be brought or over which any work is to be constructed by the licensee for giving connection of electricity to any person. To construe the word “lawful” appearing in the Rule as “having perfect legal title to possess would lead to absurdity in implementing the object of the Act and the Rules. In that event, at every stage, the licensee would face problem in giving electricity whenever any dispute as to the tile of a person to remain in possession would be raised by any other person claiming to be the owner having lawful



title over the property in question and the licensee would be required to wait until such a dispute is resolved by a competent court in a protracted litigation. We, therefore construe the word "lawful occupier" appearing in the Rule as "the person in settled possession".

Since all the land in these islands belong to the Union of India, the latter is not required to file a civil suit for eviction of a trespasser and the trespassers can be evicted by taking recourse to Regulation of 1966. However, so long such a trespasser in settled possession is not so evicted, he should be entitled to get electricity with the aid of Section 43 of the Electricity Act on compliance of the terms of supply as provided under law. It is needless to mention that the enjoyment of such electricity will not confer any right or equity to favour of the TRESPASSER in occupation to defeat the title of lawful owner.

”

- (iv) The Appellant has admitted in his reply as at R.S.E 11. above, which is reproduced below –

“

Real thing is

From the year of 2000 Kathamuthu (Tmt. Patchyammal's husband) received a patta land during the month of November 2000 from the Department of Adi dravidar welfare, Puducherry through political



influence at mariamman koil street Ramanathapuram (which is located below 100m from the disputed land) comprised in R.S. No 57/148 and constructed a pucca R.C.C house in the said patta and thereby permanently residing in the said premises without any disturbances from any quarters, however Tmt. Patchyammal, and Thiru Subramanian are withholding the disputed property by keeping some waste utensils and unwanted things/ materials in the disputed premises Tmt. Patchyammal, and Thiru Subramanian holdover in possession of the house at No. 30 mariamman koil street, Ramanathapuram, Puducherry, but in reality both of us residing at R.S No. 57/148 of mariamman koil street, Ramanathapuram, Puducherry.”

Thus the Appellant has admitted as above that Tmt. Patchyammal, is occupying/residing in their piece of land for the more than 20 years by constructing a pucca R.C.C. house.

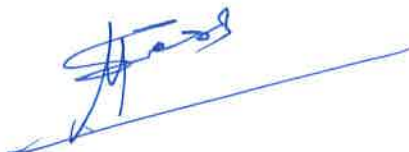
- (v) Hon'ble CGRF has also observed that on perusal of records it is observed that Adi dravidar Welfare Corporation has allocated land in the name of Thiru Veeran on 26/1/1973 i.e. almost more than 45 years back. Whereas the complainant had sought disconnection of power supply in 2018. As per the reply given by Executive Engineer (Rural North O&M) to the complainant under RTI, the service was effected before 25 years. As per the documents produced by Respondent 4, the House Tax was paid right from 2000-2001 i.e. the house is in existence for a period of more than 20 years and house is not a new construction.
- (vi) The respondents also confirmed during hearing that Electricity Connection was existing in the name of Tmt. Patchyammal under OHOB (one hut one bulb scheme) for more than two decades ago and Appellant had never objected to it.



- (vii) Moreover the release of a electric connection to a occupier does not confer any right or equity to favour the occupier to defeat the title of lawful owner, as provided in the said judgment and also provided in clause 5.30 of Electricity Supply Code Regulation-2018 notified by Joint Electricity Regulatory Commission.
- (viii) From the above analysis, it is proved on record that Tmt. Patchyammal is in settled possession of premises for a very long time (around two decades) and it is well in the knowledge of the Appellant. The respondents are statutory bound by Act to release Electricity Connection to a occupier and they have rightly extended the (OHOB) connection for Domestic use, to Tmt. Patchyammal being an occupier and therefore cannot disconnect it at the behest of Appellant.
- (ix) The plea of the Appellant that respondents have violated the guideline of Supreme Court, the codal provisions, Regulations of JERC and terms and condition of the Puducherry, without his permission /consent or theft of documents hold no water on the merit of the case, as any occupier who is in settled possession for more than two decades has a statutory right to obtain and enjoy the a electric connection till she is evicted by due process of law.

DECISION: -

- (i) For the reasons discussed above, the order passed by Hon'ble CGRF, Puducherry is upheld and appeal of appellant is rejected.
- (ii) I have not expressed any view, regarding the true ownership of the land, which could be decided by the competent court only by following the due process of law.
- (iii) In case, the Appellant or the Respondent is not satisfied with the above decision, it is at liberty to seek appropriate remedy against this order



from the appropriate Bodies in accordance with Regulation 37 (7) of the Joint Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2019.

(iv) The appeal is disposed of accordingly.



(M.P. Singh Wasal)

Electricity Ombudsman

For Goa & UTs (except Delhi)

Dated 16.03.2020