

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, Udyog Vihar - Phase IV, Sector 18,

Gurugram (Haryana) 122015,

Phone No.:0124-4684708, Email ID: ombudsman.jercuts@gov.in

Appeal No.172 of 2022

Date of Hearing: 08.09.2022

Date of Order: 09.09.2022

Shri Kamal Kumar,
Andaman & Nicobar Islands
Port Blair

.... Appellant

Versus

The Superintending Engineer,
Electricity Department, and others
Andaman & Nicobar Islands
Port Blair

.... Respondents

Parties present:

Appellant(s)

Shri Kamal Kumar,
Appellant

Respondent(s)

Shri Deepak Mondal,
Assistant Engineer



Date of Order: 09.09.2022

The Appellant has preferred an Appeal against the CGRF-A&NI, for not passing the order within the prescribed time limit in Complaint No-ANI/CGRF/250/22-23/10 dated-16.06.2022. The appeal/representation received in this office on 15.07.2022 by email has been admitted for examination and consideration on 15.07.2022. Copy of the same as received was forwarded to the Respondents with a direction to file the counter reply in the required format, to the appeal/representation within 20 days from the date of Admission Notice. The Respondents have filed the counter reply and a copy of the same was supplied to the Appellant, who has filed a Rejoinder.

Settlement by Mutual Agreement

Both the parties appeared before the Electricity Ombudsman on 08.09.2022 through video conferencing and were heard. Efforts were made to reach a settlement between the parties through the process of conciliation and mediation. However, no settlement mutually agreeable could be reached. The hearing therefore, continued to provide reasonable opportunity to both the parties to put forth their pleading on the matter.

(A) Submissions by the Appellant:

Appellant submitted the brief facts as under: -

1. I would like to inform that I am a consumer in respect of Account No. F/7372. In this regard, I am to inform that the roof of the building damaged from many parts causing severe damage to the building. On 17/01/2022 lots of rain water enters inside the building from the roof even touched the internal wiring in the process. The same has been reported on 27/01/2022 to Electricity Department.
2. That on noticing the fumes coming out of the roof of the building, the cut out at that point of time removed to save the building from destruction even though the cut out once again fixed by the official of electricity site office when there were still raining.
3. In this contest I would like to inform that there is every chance of accidental deaths due to electrocutions as occurred in Junglighat six months back.
4. Further there is every chance of occurrence of fire accident and accidental death due to short circuit and the fire may cause huge damaged to the building and property of nearby building which is densely populated.
5. Hence it is requested that the electric meter connections may be temporary disconnected till the repair of the building as the building is not safe.
6. Moreover, I will not be held responsible for any mishap occurred due to electrocution and fire damage due to short circuit in the future. Keeping in view disaster point of view early action is solicited.
7. He further complained the non-disconnection of electricity connection temporally to CGRF on 16.06.2022, but no order was passed by CGRF in prescribed period. Hence, he has appealed to Ombudsman to redress his grievance.



(B) Submissions by the Respondents :

Shri Karuna Jaydhar, working as Superintending Engineer, A&N Administration, Electricity Department and also looking after the additional charge of Executive Engineer (HQ), Electricity Department, A&N Administration, state on oath as under:-

1. That parawise counter reply is as under:-

- i. That, in receipt of application dated 11.04.2022, from Shri. Kamal Kumar, S/o. Jagdish Kishen, for temporary disconnection of meter connection bearing consumer Account No. F/7372, the authorized officer of licensee i.e. Assistant Engineer, Sub-Division-II, HQ Division, Electricity Department, directed the Junior Engineer of concerned area to visit the said premises immediately and take suitable necessary action.
- ii. Accordingly, the Junior Engineer, Dairy Farm, site office, inspected the premises and found that the electricity connection bearing Account No. F/7372, provided with single phase on 1st July, 2021, for the rental portion as per request of applicant.
- iii. During the inspection it is found that, said electric connection is being using by a lone lady as tenant.
- iv. That, the matter was enquired from the neighbor of the same locality and it has come to the noticed that the applicant wants to vacate the tenants by disconnecting the above said electric connection.
- v. That, the user of consumer account No. F/7372, regularly paying the electric charges and there are no outstanding dues are pending against the above said electric connection.
- vi. Also, it is found that the electric wiring and earthing of above stated electricity connection was found satisfactory.
- vii. In light of above, the request of applicant for temporary disconnection of above said electricity meter connection was denied.
- viii. However, as per the direction received from Hon'ble Ombudsman, the electricity connection bearing consumer Account No. F/7372 temporary disconnected on 27.08.2022.
- ix. That, in the light of the above submissions made herein it is humbly requested that the appellatant prayer may kindly be dismissed.

(C) Ld. CGRF-A&NI order preferred for Appeal:

(i) After registering the complaint on 16.06.2022, Ld. CGRF-A&NI, has neither heard the matter nor has passed any order within the stipulated time as required as per Consumer Grievance Redressal Forum and Ombudsman Regulations-2019, as the appointment to the vacant posts of Chairman and Member of CGRF



have not been finalized by the Distribution Licensee/Andaman & Nicobar Islands Administration till date.

(D) Deliberations during e-hearing on 08.09.2022:-

1. Appellant's Submission:

- (a) Shri. Kamal Kumar -Appellant, reiterated his version as submitted in the Appeal/ Rejoinder.
- (b) He further clarified that he owns this premises measuring approx. 5mts X4 mts and it has an Asbestos sheet roof, which has been damaged by his tenant and he has lodged complaints with the SHO concerned. He apprehends that water leakage from roof may cause any accident and accordingly he has asked the Electricity Department to temporally disconnect the supply.
- (c) On being asked if there is any court case pending between him and the tenant. He replied that a court case is pending in the court of CJM (Sr. Division) at Port Blair.
- (d). On being asked that why he has not disclosed this fact in his Appeal, he has no answer.

2. Respondent's Submission:

- (a) Shri Deepak Mondal– Assistant Engineer, for the Respondent reiterated his version as submitted in the counter reply to the Appeal.
- (b) He further informed that Sh. Karuna Jaydhar, Superintending Engineer is pre-occupied in a meeting with Andaman & Nicobar Administration and therefore he has been authorized to defend this case.
- (c) He further informed that as per direction in Admission Notice dated-15.07.2022, the electricity connection was disconnected but the compliance of reconnection order dated-20.08.2022 could not be made because at the time of reconnection, it was found that Asbestos roof has been damaged at many places and it is not safe to reconnect the supply.
- (d) On being asked by this Court, if any notice was served to the consumer as per CEA (Measures relating to Safety and Electric Supply) Regulations-2010/ Supply Code Regulations-2018, he replied in negative.

(E) Findings & Analysis: -

1. I have perused the documents on record and pleadings of the parties.
2. The documents submitted by the parties have been believed to be true and if any party submitted a fake/forged document, and then they are liable to be prosecuted under relevant Indian Penal Code/Rules/Regulations.
3. The issues which have arisen for considerations in the present Appeal is as under: -
 - i. Whether the Appellant is entitled to relief for temporary disconnection of his connection, as prayed for?



4. (a) Regarding issue no 3(i) as above, as to whether the Appellant is entitled to relief for temporary disconnection of his connection, as prayed for?

(b) Following provisions have been provided in the Supply Code Regulations-2018, as notified by the Joint Electricity Regulatory Commission regarding Disconnection/Reconnection:-

DISCONNECTION AND RECONNECTION

9.1 The supply may be disconnected temporarily or on a permanent basis as per the procedure described below. The Licensee shall remove service line, meter, etc., after permanent disconnection. However, the Licensee may not remove service line, meter, etc., in case of temporary disconnection.

9.2 The charges for connection, reconnection and disconnection shall be in accordance with the Schedule of Charges approved by the Commission.

Temporary Disconnection

9.3 The supply may be disconnected temporarily in following cases:

- 1) On non-payment of the Licensee's dues: The Licensee may issue a disconnection notice in writing, as per Section 56 of the Act, to any consumer who defaults on his payment of dues, after giving him a notice period of minimum 15 working days to pay the dues. Thereafter, the Licensee may disconnect the consumer's installation on expiry of the said notice period by removing the service line/meter as the Licensee may deem fit;
- 2) If the conduct/continuance of any business/industry/activity being carried out in any premises becomes unlawful due to lack of necessary permission or withdrawal of permission from the competent authority;
- 3) **If the wiring, apparatus, equipment or installation at the consumer's premises is found to be defective or there is leakage of electricity or if the consumer is found to have altered the position of the meter and related apparatus or if the consumer uses any apparatus or appliance or uses the energy in such manner as to endanger the service lines, equipment, electric supply mains and other works of the Licensee, or is found to be using it in any manner which unduly or improperly interferes with the efficient supply of energy to any other consumer;**
- 4) If at any time, the consumer is found to be using energy for a purpose other than for which it was intended / provided or tampers with the meter and/or other apparatus of the Licensee on his premises or extends/allows supply of energy to any other premises from his connection;
- 5) If the consumer remains unavailable for meter reading for two or more billing cycle after factoring in advance payment for the period of absence, if any as per the provisions of this Supply Code, 2018.

9.4 The supply shall be disconnected after giving a notice period of minimum 15 days. The supply shall be disconnected only if the cause of the disconnection is not removed within the notice period.

9.5 The Licensee shall, after the connection is temporarily disconnected as per



Regulations 9.3(2), 9.3(3) and 9.3(4), issue a notice to the consumer to remove the cause of disconnection within 45 days for domestic consumer and 15 days for consumer of other categories, respectively, failing which the supply shall be disconnected permanently.

9.6 The Licensee may take steps to prevent unauthorized reconnection of consumers disconnected in the manner as described above. Wherever the Licensee discovers that connection has been re-connected in an unauthorized manner, Licensee may initiate action as per provisions of Section 138 of the Act. Further, in case the Licensee discovers that supply to such premises has been restored through another live connection, the same shall also be disconnected.

(c) Following provisions have been provided in the CEA (Measures relating to Safety and Electric Supply) Regulations-2010, as notified by the Central Electricity Authority: -

"13. Service lines and apparatus on consumer's premises: - (1) The supplier shall ensure that all electric supply lines, wires, fittings and apparatus belonging to him or under his control, which are on a consumer's premises, are in a safe-condition and in all respects fit for supplying electricity and the supplier shall take precautions to avoid danger arising on such premises from such supply' lines, wires, fittings and apparatus.

(2) Service lines placed by the supplier on the premises of a consumer which are underground or which are accessible shall be so insulated and protected by the supplier as to be secured under all ordinary conditions against electrical, mechanical, chemical or other injury to the insulation.

(3) The consumer shall, as far as circumstances permit, take precautions for the safe custody of the equipment on his premises belonging to the supplier.

(4) The consumer shall also ensure that the installation under his control is maintained in a safe condition.

29. Precautions to be adopted by consumers, owners, occupiers, electrical contractors, electrical workmen and suppliers:- (1) No electrical installation work, including additions, alterations, repairs and adjustments to existing installations, except such replacement of lamps; fans; fuses, switches, domestic appliances of voltage not exceeding 250V and fittings as in no way alters its capacity or character, shall be carried out upon the premises of or on behalf of any consumer, supplier, owner or occupier for the purpose of supply to such consumer, supplier, owner or occupier except by an electrical contractor licensed in this behalf by the State Government and under the direct supervision of a person holding a certificate of competency and by a person holding a permit issued or recognized by the State Government.

Provided that in the case of works executed for or on behalf of the Central Government and in the case of installations in mines, oil fields and railways, the Central Government and in other cases the State Government, may, by notification in the Official Gazette, exempt on such conditions as it may impose, any such work described, therein either generally or in the case of any specified class of consumers, suppliers, owners or occupiers.



(2) No electrical installation work which has been carried out in contravention of sub-regulation (1) shall either be energised or connected to the works of any supplier.

31. Testing of consumer's installation: - (1) Upon receipt of an application for a new or additional supply of electricity and before connecting the supply or reconnecting the same after a period of six months, the supplier shall either test the installation himself or accept the test results submitted by the consumer when the same has been duly signed by the licensed Electrical Contractor.

(2) The supplier shall maintain a record of test results obtained at each supply point to a consumer, in a Schedule-V.

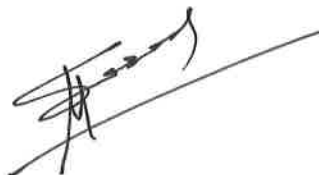
(3) If as a result of such inspection and test, the supplier is satisfied that the installation is likely to be dangerous, he shall serve on the applicant a notice in writing requiring him to make such modifications, as are necessary to render the installation safe and may refuse to connect or reconnect the supply until the required modifications have been completed

34. Leakage on consumer's premises: - (1) If the Electrical Inspector or the supplier has reasons to believe that there is leakage in the system of a consumer which is likely to affect injuriously the use of electricity by the supplier or by other persons, or which is likely to cause danger, he may give the consumer notice in writing that he desires to inspect and test the consumer's installation.

(2) If on such notice being given the consumer does not give all reasonable facilities for inspection and testing of his installation, or when an insulation resistance of the consumer's installation is so low as to prevent safe use of electricity, the supplier may, and if directed so to do by the Electrical Inspector shall discontinue the supply of electricity to the installation but only after giving to the consumer forty eight hours' notice in writing of disconnection of supply and shall not recommence the supply until he or the Electrical Inspector is satisfied that the cause of the leakage has been removed."

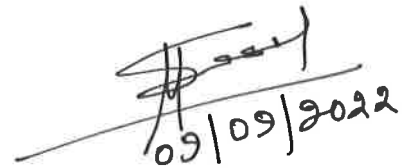
(e) On the very first instant it appears from the counter reply/pleadings that Appellant has not come to this court with clean hands and want to evict the tenant as he has not disclosed in his Appeal that a tenant is living in the premises in question and a court case is pending between them. The Respondents have also affirmed in counter reply that a tenant is living there and therefore Respondents have not disconnected the supply. On the other hand, the Respondents have not reconnected the supply on the ground that roof has been damaged at many places and it is not safe to reconnect the supply. The Appellant has also supplied the images /proof of damage of asbestos roof at many places and also alleged that tenant has damaged it.

In view of the explicit provisions in Regulation-9.3(3) of the Supply Code Regulations and the Regulation No-13,29,31 and 33 of CEA (Measures relating to Safety and Electric Supply) Regulations-2010 and other provisions, safety is the first priority in supply and use of electricity supply. Therefore, the request of the Appellant to temporarily disconnect the supply to avoid occurrence of any accidents due to leakage warrants considerations.



(E) DECISION

1. For the reasons discussed above, the appeal of the Appellant is allowed without any cost.
2. The Respondents/Licensee is hereby directed to inspect the premises immediately and if on inspection the installation is not found safe, notice as per provisions of Supply Code Regulations-2018 and CEA (Measures relating to Safety and Electric Supply) Regulations-2010, as required, be issued to the Appellant, to rectify the defects and submit test report from electrical contractor licensed in this behalf by the State Government, before reconnecting the electricity supply.
3. The Electricity Department/Licensee should submit a compliance report to the office of Electricity Ombudsman on the action taken in this regard within **30 days** from the issuance of this Order by email.
4. In case, the Appellant or the Respondents are not satisfied with the above decision, they are 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.
5. Non-compliance of the orders of the Ombudsman by the Electricity Department/Licensee shall be deemed to be a violation of Regulations and shall be liable for appropriate action by the Commission under the provisions of the Electricity Act, 2003.
6. The appeal is disposed of accordingly.

Handwritten signature of M.P. Singh Wasal and the date 09/09/2022.

(M.P. Singh Wasal)
Electricity Ombudsman
For Goa & UTs (except Delhi)

Dated: 09.09.2022