

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.179 of 2022

Date of Hearing: 20.10.2022

Date of Order: 25.10.2022

Shri M. Abishak ,
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. M. Abishak,
Appellant

Respondent(s) Smt. Rizwana,
Executive Engineer



Date of Order: 25.10.2022

The Appellant has preferred an Appeal against Non-implementation of CGRF-A&NI's order dated-22/09/2021 by the Respondents in Complaint No-ANI/CGRF/212/20-21/31. The appeal/representation received in this office on 08.09.2022 by post and the same was admitted for examination and consideration on 12.09.2022. 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, to file a Rejoinder.

Settlement by Mutual Agreement

The Respondents appeared before the Electricity Ombudsman on 20.10.2022 through video conferencing and were heard. The Appellant could not join the video conferencing due to network issues; however he later joined on telephone. Smt. Rizwana-Executive Engineer informed that the Electricity Department has taken a decision to implement the CGRF order and Appellant has been requested to complete the codal formalities.

(A) Submissions by the Appellant:

Appellant submitted the brief facts as under: -

That I Sh. M. Abishak, R/o Teylorabad, would like to inform you that I had applied for new electric connection in the year 2019 along with all relevant documents as old encroached land in dwelling house. I further inform you that I am in a settle possession and staying with my family.

It has come to my knowledge that the Hon'ble High Court has passed an order in favour of the encroacher, those who are in settle possession may eligible to get electric connection

Therefore, it is requested to kindly provide new electric connection (domestic) on the ground of "settle possession" at the earliest please.

I approached the CGRF and the Forum has issued an Order dated 22/09/2021 to provide electric connection with certain direction and on expiry of 45 days, further within 15 days electric connection should be provided. However, even after lapse of more than one year, the department has not implemented the Forum's order, hence Appeal to the Ombudsman to direct the Respondents to provide electric connection in my house.



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

Smt. Rizwana, working as Executive Engineer, in the Electricity Department, A&N Administration, stated on oath as under: -

1. That the deponent humbly request to condone the delay in filing the reply in the instant matter
2. That, the deponent is presently working as Executive Engineer, South Andaman Division and is duly authorized by Superintending Engineer, Electricity Department to file this reply and represent on behalf of Electricity Department, A&N Administration, in this case

3. Facts of the counter reply as under :-

- i. That, the appellant Sh. M. Abishak, R/o Teylerabad, Port Blair, on 09/11/2020 had submitted an application in the office of Assistant Engineer, Chouldhari, requesting to provide domestic electric connection in his dwelling house, constructed in the encroached land.
- ii. That, being an encroached land, connection to the party concern could not be provided at that juncture, owing to the decision taken by the competent authority to cease connection to the encroachers.
- iii. That, the application submitted by Sh. M. Abishak, R/o Teylerabad, was reviewed by the Superintending Engineer in the light of the orders passed by Ld. Electricity Ombudsman on 05/08/2022, in the similar matters, wherein CGRF orders for providing electric connections to the encroachers were upheld. Inter-alia direction was issued by Superintending Engineer to provide electric connection to the petitioner.
- iv. That, in compliance to the direction of Superintending Engineer, immediate action is being taken for providing electric connection to the petitioner and compliance will be submitted shortly.
- v. That, in the light of the above submissions made herein it is humbly requested that the matter be disposed of accordingly.



(C) Ld. CGRF-A&NI, order dated-22/09/2021 preferred for Appeal:

Order

Quote

1. "Realizing the present correspondence scenario of the Licensee/Respondent (ED) between it and the A&N Administration, the Forum directs the Licensee (ED) to obtain some clear-cut legal direction from A&N Administration within a period of maximum 45 days from the date of receipt of this Order.
2. The Licensee / Respondents (ED) is directed to provide Electricity connection to Smt. Waheeda Ali and Shri. M. Abishak, the petitioners in this instant case within next 15 days after the period of 45 days for making necessary correspondence as stated in para 1 above is over.
3. After a period of 60 days, the Licensee/Respondent (ED) should submit a compliance report immediately to this Forum.
4. The complainant having approached this Forum for settlement of grievance shall not be harassed overtly or covertly by the respondent in any manner whatsoever.
5. In case of dissatisfaction, the complainant shall have the liberty to appeal against this Order before (the Electricity Ombudsman, For the State of Goa and Union Territories , 3rd Floor, Plot No-55-56, Pathkind Lab Building, Service Lane, Udyog Vihar, Phase-V, Sector-18m Gurugram (Haryana) 122015, telephone No. 0124-4684708.) e-mail address: ombudsman.jercuts@gov.in within two months from the date of receipt of this order in the prescribed format which can be collected from this office in any of the working days."

Unquote

(D) Deliberations during hearing on 20.10.2022 through video conferencing :-

1. **Appellant's Submission:**

- a) Shri M. Abishak-Appellant did not join the video conferencing at 11.30 am as scheduled.
- b) Accordingly, e-hearing was postponed for 11.45 am and efforts were made through Registrar and Respondents to contact the Appellant on his mobile phone, but he could not be contacted.
- c) However, after the e-hearing, he contacted the Registrar on mobile phone and informed that due to network issues, he could not join the video conferencing. He reiterated his version as submitted in the Appeal. He further submitted that he is regularly meeting CGRF office and officers of the Respondents, but nobody is implementing the CGRF order. He submitted that he is a poor person and cannot afford to appoint an advocate to follow up the case and further requested to condone the unintentional delay in approaching the Hon'ble Ombudsman.
- d) He further submitted that in the same CGRF order, the Respondents have released the connection to Smt. Waheeda Ali:-co-petitioner, on the intervention of Hon'ble Ombudsman. Therefore, connection should also be released to him, being similarly situated person.



2. Respondent's Submission:

- (a) Smt. Rizwana-Executive Engineer for the Respondent reiterated her version as submitted in the counter reply to the Appeal.
- (b) She further informed that office of the Assistant Engineer-Chouldhari has written a letter dated-19.10.2022 to the Appellant, to complete the codal formalities in consultation with Junior Engineer (S/Ghat) so that connection is provided at his dwelling house.

(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, then they are liable to be prosecuted under relevant Indian Penal Code/Rules/Regulations.
3. The delay in filing the Appeal is hereby condoned, in the interest of Justice
4. The issues which have arisen for considerations in the present Appeal is as under:-
 - i. Whether the Respondents have implemented the CGRF order dated-22.09.2021 or not?
5. (a) Regarding issue no 4(i) as above, as to whether the Respondents have implemented the CGRF order dated-22.09.2021 or not?
 - (b) I have perused the affidavit filed by the Respondents and their confirmation during e-hearing and their letter dated-19.10.2022 to the Appellant. The Appellant is required to submit application for connection in proper format along with other codal formalities. As soon as the Appellant submit the complete application, the Respondents are bound by the undertaking to release the connection.

(F) DECISION

1. For the reasons discussed above, the appeal of the Appellant is allowed without any cost.
2. The Orders passed by Ld. CGRF-ANI dated 22.09.2021 are upheld.
3. The Respondents/Licensee is hereby directed to release the electricity connection to the Appellant within 15 days after submission of complete application.
4. Further considering the safety considerations in releasing connection to the Appellant/such encroachers, a Single Phase, 2- Pole, Earth Leakage Circuit Breaker (ELCB) or a Circuit Breaker with better specifications should be



installed on the outgoing side of the electricity supply by the Respondents at their cost.

5. Further, it is made clear that release of electricity connection to the Appellant will not confer any right or equity in favour of the trespasser/encroacher in occupation to defeat the title of the lawful owner and shall not be treated as having rights or title over the premises.
6. 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.
7. 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.
8. 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.
9. The appeal is disposed of accordingly.



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

Dated: 25.10.2022