

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.181 of 2022

Date of Order: 20.12.2022

Date of Hearing: 12.12.2022

Ms. Marry Michael D'Mello,
Goa

.... Appellant

Versus

The Chief Electrical Engineer,
Electricity Department,
Goa and others

**....
Respondents**

Parties present:

Appellant(s) Ms. Marry Michael D'Mello

Respondent(s) Sh. Pradip K. Narvekar-Executive Engineer,
Sh. Agnelo Trindade-Assistant Engineer



Date of Order: 20.12.2022

The Appellant has preferred an Appeal against the order of CGRF-Goa in Complaint/Representation No.15/2022/101 dated-22.08.2022. The appeal/representation received in this office on 12.10.2022 by email and the same was admitted for examination and consideration on 13.10.2022. Copy of the same as received was forwarded to the respondents with a direction to endeavor to settle the representation through mutual agreement within 10 days. In case no settlement is achieved through mutual agreement, respondents should file the affidavit of counter reply, which has been filed. The Appellant has filed the Rejoinder.

(A) Submissions by the Appellant:

Appellant submitted the brief facts as under: -

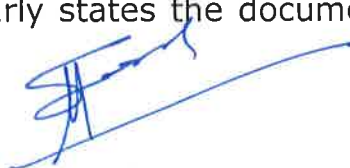
1. FACTS OF THE CASE: -

- (i) This is with reference to the CGRF order received by me through registered post on 10/09/2022 (hearing held on 16.08.22). I am aggrieved by the order passed by the CGRF, and humbly submitting to your office, in the pursuit of justice.
- (ii) To summarize I applied for a new connection as per the Order passed by this Hon'ble Court vide Appeal No. 159 of 2021/307-311 dt. 08.03.2022. My application No. 10011034047 dt. 31.03.2022 was cancelled citing the following deficiencies:

1. Wiring Contractors completion test report and wiring diagram
2. Ownership document & NOC from Panchayat.

(iii) Listing below my justification on each of these deficiencies:

1. Wiring Contractors completion test report and wiring diagram. The CGRF agreed with the Department and relied on general terms and condition of Supply Code 2018 (Annexure xx) for a test report and completely overlooked:
 - Clause 5.24 to 5.34 that governs the procedure for new connection.
 - Annexure I which is an integral part of the Supply Code too does not mandate this.
 - Central Government Notification dated 31st December, 2020 Rule No. 4(9) clearly states the documents needed for a new



connection up to 10 KW. I verified with a couple of DISCOMs in the country too, who are complying with this Notification and not insisting on this report even for a new connection by the owner, leave alone when it's a new occupier.

2. Ownership documents & NOC from Panchayat

Here again the CGRF completely overlooked the Central Government Notification that allows Aadhar/Passport as occupancy. Even Supply code 2018 5.30(8) allows ration/voter's card as acceptable documents to bonafide consumers residing in areas with no specific municipal limits. I submitted my dad's Panchayat tax receipt, but the department demanded NOC from the Panchayat. The CGRF in its findings makes reference to an email from the department dated 18.08.2022 listing acceptable documents, which was after the hearing date, not discussed and cannot be applied retrospective.

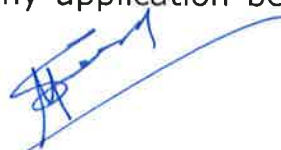
3. Objections by Dylon Francis D'Mello

After the CGRF hearing, the department forwarded me an email on the same day, enclosing his hand written application dt. 12.08.2022 for a separate connection (marked to CGRF too, enclosed). As per Supply Code 2018, an application means an Application Form complete in all respects in the appropriate format, as specified in this Supply Code, 2018 along with documents showing payment of necessary charges and other compliances. I fail to see how the CGRF recognized this Application awaiting installation.

(iv) All of the other objections quoted by the CGRF have already been established and documented in the order passed by this Hon'ble Court vide Appeal No. 159. Due to the demise of my grandmother the Hon'ble Court directed the Appellant/Intervenor (either one) to apply for a new connection to regularize the billing name. The Order is in line with the report by Kerala High Court Judgement (encl.) which does not permit two connections for one house.

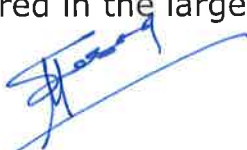
(v) In view of the above, plead as follows:

a) The department has not followed the procedure and timelines with regard to processing of application for a new connection and has arbitrarily cancelled my application. My application was dated 31.03.2022, shortcomings was communicated on 04.05.2022 as against the stipulated 3 days. This too after several visits and reminders. I requested that my application be approved as it is in



compliance. I have paid a fee of Rs. 150/- (form fee Rs. 50 and processing Rs. 100/-) which is non refundable. Here again the Notification clearly states that Forms will be free, but the DISCOM is charging for the same and should be adjusted.

- b) The Department disconnected our electricity on Monday, 1st of August, 2022 at 10 am in complete violation of all natural laws of justice. Energy got restored only after the kind intervention of the Chief Electrical Engineer, at 05:30 pm. Notice No. AE/Com/SD-II/POR/BS-45/2022-23/1169 dt. 20.07.2022 (encl) was hand delivered to me on 21.07.2022. Notice No. 1/9/AE/O&M/SD-II/POR/2022-23/762 dt. 20.07.2022 (encl) was sent by ordinary post, knowing fully well that the 7 days deadline would expire by the weekend. There has been a malicious and deliberate intent to harass by the AE and EE of this division, who has also been privy to the sequence of events. The department has subverted the cause of justice delivered by this Hon'ble Court by refusing approval of my application on illegitimate grounds and in complete disregard for the guidelines issued by JERC and the Union Ministry, as enumerated above. I have had to apply for absenteeism from work to rush to the office upon receiving these notices, replying etc. which has affected my livelihood too. I maintain my claim of Rs. 1,00,000 (Rupees One Lakh Only) for delaying approval of my application and as compensation for the mental agony and undue harassment affecting the health of me and my family, especially during the pandemic when most life saving apparatus rely on electricity and work from home, and to deprive us of right to live with dignity and in complete violation of the rights and obligation as enshrined in the Electricity (Right of Consumer) Rules, 2020 Notification dated 31st December, 2020, issued by the Central Government.
- c) This Div. approves applications without following the requisite procedures and mandated documents when it pleases and refuses approvals despite being in compliance. I am being victimized and plead disciplinary action against this reckless act of disconnection and its continuous unwarranted threats. The guidelines are drafted in a manner every average consumer can understand, but it appears the system is managed by incompetent officers or those who operate in a highly compromised environment or both and citizens have to approach this Hon'ble Court time and again seeking justice. Trusting, it will take a serious view to ensure accountability and that consumer rights are protected as envisaged by JERC and the Union Government. I have full faith and conviction that justice will be served and honored in the larger interest of society.



(B) Submissions by the Respondents :

Shri Pradip K. Narvekar working as Executive Engineer in the Electricity Department, Division VI, Mapusa , solemnly affirm and state on oath as under:-

1. That the deponent is working as Executive Engineer, and is authorized by Electricity Department, Government of Goa being Deemed Licensee) vide letter no: 149/03/CEE/TECH/COM/1115 dated 01/11/2022 (certified copy enclosed), to file this reply and represent on behalf of Electricity Department, Government of Goa in this case.
2. That parawise counter reply is as under-

The application for new connection by Mrs. Mary D'Mello was cancelled because of the following.

a) No proof of occupancy/ownership was produced as mandated by JERC supply code Regulation 2018. No N.O.C from Panchayat was insisted upon but any other ownership / occupancy related document was requested.

b) No wiring test report was produced as mandated by the JERC Supply Code Regulation 2018.

Parawise replies.

1) Wiring test report of rewiring/originally altered wiring of the premises for new application is mandatory for new connections as per Annexure XX of the supply code Regulation. Further any other documents as mandatory by the JERC Commission in the supply code Regulations 2018 inforce as on date were requested to be produced, which however could not be produced by the Applicant/ Appellant. The JERC Commission directives/amendments based on Central Government notification dated 31st December 2020 as requested by the Appellant are awaited to accommodate similar requests from perspective consumers and which have not been received till date.

2) The Applicant/Appellant applied for new connection in her name as such her father's Panchayat tax receipt was not accepted. No. N.O.C. from Panchayat was insisted but any other ownership/occupancy related document from competent authority was requested to be produced.

3) The Intervener Mr. Dylan D'Mello was released connection after completion of all Departmental formalities and producing the relevant documents mandated and after receipt of complete Application form for



premises bearing a House no. 182. The Appellant however had applied for new connection bearing H. No. 182A which was cancelled.

4) The action taken was in view of the directions of the Hon'ble Electrical Ombudsman vide his order dated 08/03/2022. Clause 5.125 of the Supply Code Regulation 2018 also pertains giving supply to more than one point on account of separate physical layout, wiring of the installation and requirements of the consumer.

5) In context to the plea of the Appellant the following is submitted:-

- (i) The fees of Rs. 150(Rs.50+100) were as per the fees notified vide EXTRAORDINARY gazette no. Series I No: 36, Dated 4th December 2020 and the Application was rejected due to the same being incomplete.
- (ii) The connection was disconnected after following the procedure and serving of notice to the Appellant in advance in keeping with the directives of the order dated-08.03.2022 from the Hon'ble Electricity Ombudsman and in order to submit compliance report to the office of the Electricity Ombudsman, the same was however reconnected on humanitarian grounds to enable her to take needful action in the matter.
- (iii) The CGRF vide order dated 24/08/2022, however dismissed complaint of the complainant. The connection however needs to be taken up for permanent disconnection in view of the Agreement becoming null and void in lieu of the order dated 08.03.22 from the Hon'ble Electricity Ombudsman and necessary action will accordingly be taken based on the directives issued on the disposal of the current appeal.

(C) Ld. CGRF-Goa's order dated-22.08.2022 preferred for Appeal

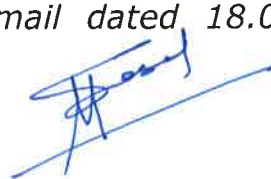
Order

Quote

Findings.

We perused the records and gave due consideration to the submissions of the parties. In light of the rival contentions, the issue that arises for our determination is whether the Department's demand for submission of certain documents as condition precedent for release of the new connection to the complainant are valid.

The Department through AE SD-II Porvorim has brought to our notice the relevant regulations; their email dated 18.08.2022 is extracted and transcribed below:



"As per Official Gazette Series I no. 47 dt 21/02/2019 Annexure XX, General Condition of Supply, wiring on consumer premises. Accordingly, the consumer to submit:

a) *WIRING TEST REPORT* duly certified from GED affiliated electrical contractor,

b) Any one of the following are accepted as Ownership Documents:

1. Registered Sale Deed/Lease Deed of the Premises/Form I & XIV,
2. Municipal / Panchayat Tax Receipt indicating house number and the name of the owner of the premises,
3. Letter of allotment,
4. Copy of the House Registration Certificate issued by the Panchayat/Ownership Certificate issued by Revenue Authorities,
5. Succession Deed/ Inventory Proceedings/Registered Will,
6. GST Registration reflecting name and address of the premises.

In case where an occupant is unable to produce any of the above documents then an order under the Goa Health Act, issued by the concerned Health Officer may be submitted."

We perused the said notification published on the Official Gazette. It pertains to the Electricity (Supply Code) Regulations 2018 notified by the Joint Electricity Regulatory Commission for State of Goa and Union Territories. Section 5.30 sets out the documents acceptable for proof of ownership to be submitted by the applicant. The provision regarding ownership proof of "bonafide applicants" referred by the complainant are only in respect of occupants of JJ clusters etc (i.e. slum areas) (Sec. 5.30 (8)). The Supply Code 2018 also requires a wiring test report of license contractor to be submitted (Annexure XX). According to the Department, the documents submitted by the applicant/complainant are not acceptable as proof of ownership. The mandatory wiring test report has also not been submitted.

We find merit in the Department's version. The extant Supply Code lists out the acceptable proofs of ownership that an applicant for new connection is required to provide. The complainant has failed to produce any such document to the satisfaction of the Department. Wiring test report is also not provided. Hence, in our opinion, the Department's refusal to release the new connection to the complainant cannot be faulted.

However, in the event the complainant provides the requisite documents within the next 30 days, the Department shall revive her online application and process as per law.



With respect to the objection of Dylan Francis DeMello, it is well settled that grant of electricity connection does not prove or convey or confirm any ownership rights to the premises.

In view of the foregoing, nothing survives in the complaint and the same stands disposed of.

"The Complainant, if aggrieved, by non-redressal of his/her grievance by the Forum or non-implementation of CGRF order by the Licensee, may make an Appeal in prescribed Annexure-IV, to the Electricity Ombudsman, Joint Electricity Regulatory Commission for the State of Goa and UTs, 3rd Floor, Plot No. 55-56, Service Road, Udyog Vihar, Phase-IV, Sector-18, Gurugram-122015 (Haryana), Phone No. 0124-4684708, E-mail ID: ombudsman.jercuts@gov.in within one month from the date of receipt of this order."

(D) Deliberations during hearing on 12.12.2022 at Vasco-Goa:-

1. Appellant's Submission:

- (a) Ms. Mary Michael D' Mello-Appellant, reiterated her version as submitted in the Appeal/Rejoinder and requested for grant of electric connection at the earliest.
- (b) She submitted that as per "Electricity (Right of Consumer) Rules, 2020", she is not supposed to supply any Test Report or ownership documents. She submitted that she is applying as an occupier. She further submitted that as per Section-5.30 (8) of the JERC Supply Code Regulations-2018, she is not supposed to supply NOC from the Panchayat.

2. Respondent's Submission:

- a. Sh. Pardip K. Narvekar-Executive Engineer for the Respondent reiterated his version as submitted in the counter reply to the Appeal.
- b. He submitted that the Respondents have cancelled her online application due to shortcomings, which were duly pointed out to the Appellant on dated-02.05.2022, 06.06.2022 and 01.07.2022. The Appellant was also informed on June, 2022 that if she is applying as an Occupier, she needs to file an Indemnity Bond and a sample of Indemnity Bond was also supplied. The Appellant admitted of having received the sample of the Indemnity Bond. He further submitted that if she files complete application/documents, they are ready to release the connection as per Regulations.



(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 issues which have arisen for considerations in the present Appeal are as under:-
 - i. Whether the Appellant is entitled to relief for grant of a new Electricity Connection, as prayed for?
 - ii. Whether the Appellant is entitled for penalty/compensation as prayed for?
4. (a) Regarding issue no 3(i) as above, as to whether the Appellant is entitled to relief for grant of a new Electricity 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 grant of a New Electricity Connection: -

Procedure for providing New Electricity Service Connection

Application Form

5.24 The applicant shall apply for release of new connection in the following format as given in the Annexure to this Supply Code, 2018:

*Application form for release of new connection (Low Tension) - **Annexure-I***

*Application form for release of new connection (High Tension/ Extra High Tension) - **Annexure-II***

*Format for declaration/undertaking to be signed at the time of receiving electricity supply - **Annexure-III***

5.25 Application forms shall be available at the local office of the Licensee free of cost. The Licensee shall also put up all application forms on its website for free download. Legible photocopies of a blank form may be made by the applicant, which shall be accepted by the Licensee. The Licensee shall clearly display on its website; the address and telephone

numbers of offices where filled-up application form can be submitted. The Licensee shall also display in each office, the address and telephone numbers of offices in the respective area of supply where filled-up application form pertaining to that particular area can be submitted. Any assistance or information required in filling up the form shall be provided to applicants at the local office of the Licensee.

5.26 The Licensee shall also provide new avenues for applying for new connection or modification in existing connection through website, mobile application, call centres, etc., which minimize the applicant's interface with the utility during the process.

5.27 Application forms for new connection must be accompanied with a photograph of the applicant, identity proof of the applicant, proof of applicant's ownership or occupancy over the premises for which new connection is being sought, proof of applicant's current address, and in specific cases, certain other documents as detailed in Regulation 5.29 of this Supply Code, 2018.

5.28 Non-Refundable Registration-cum-processing fees of Rs. 20,000/- for HT and Rs. 1, 00,000/- for EHT shall be levied while applying for new connection. These charges shall be adjusted by the Licensee while issuing the demand note.

5.29 Any of the following documents shall be considered as acceptable proof of identity:

If the applicant is an individual:

- (1) Electoral Identity Card*
- (2) Passport*
- (3) Driving Licence*
- (4) Photo Identity card issued by Government agency*
- (5) PAN Card*
- (6) Photo Certificate from village Pradhan or any village level Government functionary like Patwari/ Lekhpal/ village level worker/ village chowkidaar/ Primary school teacher/ in-charge of primary health centre, etc.*
- (7) Aadhaar Card.*

5.30 Any of the following documents shall be considered as

acceptable proof of ownership or occupancy of premises:

- 1. Copy of the registered sale deed or lease deed or rent agreement and in the case of agricultural connections, a copy of khasra / khatauni / khatanakal;*
- 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 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 at (1) to (6) above, also furnish a No Objection Certificate from owner of the premises:*

Provided that where an applicant, who is lawful occupier of the premises, is a tenant or a leaseholder and is unable to produce the No Objection Certificate from owner for obtaining a connection, a separate Indemnity Bond shall be executed in favour of the Distribution Licensee in the form prescribed by the Distribution Licensee.

- 8. For bonafide consumers residing in JJ clusters or in other areas with no specific municipal address, the Licensee may accept either ration card or electoral identity card mandatorily having the same address as a proof of occupancy of the premises only for the purpose of releasing electricity connection and not for any other purpose:*

Provided further that the electricity bill shall be only for electricity supply to the premises occupied by the consumer and shall not be treated as having rights or title over the premises.

5.31 All communications shall be sent at the address where the connection has been released. However, till release of connection, communication may be sent at the address provided by the applicant for this purpose



5.32 In case of a partnership firm - The applicant shall furnish the partnership deed and an authorization in the name of the applicant for signing the requisition form and agreement.

5.33 In case of Public and/or Private Limited Company - The applicant shall furnish the Certificate of Incorporation, Memorandum and Articles of Association and Board Resolution for authorization in the name of the applicant for signing the requisition form and agreement.

5.34 Other documents applicable only for select consumer categories:.....

(c) Following provisions have been provided in **Annexure-XX** of the Electricity Supply Code Regulations-2018:-

Annexure-XX

General Conditions of Supply

Wiring on Consumer's Premises

1. The work of wiring at the premises of the consumer shall be carried out by a Licensed Electrical Contractor and conform to the standards specified in Central Electricity Authority (Measures relating to Safety and Electricity Supply) Regulations, 2010. The material used for wiring shall comply with or be superior to the standards laid down by the Bureau of Indian Standards. All high-rise buildings, having a height of more than 15 meters from ground level, shall also comply with Rule 50-A of the Central Electricity Authority (Measures relating to Safety and Electricity Supply) Regulations, 2010. Wiring shall be tested as per provisions of regulation 31 of the Central Electricity Authority (Measures relating to Safety and Electricity Supply) Regulations, 2010.

2.
3.
4.

(d) Following provisions have been provided in the "**Measures Relating to Safety and Electric Supply Regulations-2010**", as notified on 22.09.2010 by the Central Electricity Authority as per powers conferred by section-177 of the Electricity Act-2003:-

"Section 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 energized or connected to the works of any supplier.

Section 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.

Section 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 tile 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 tile leakage has been removed.

(e) Following provisions have been provided in the "Electricity (Rights of Consumers) Rules-2020" , as notified on 31.12.2020 by Central Government, as per powers conferred by section-176 of the Electricity Act-2003:-

4. **"Release of new connection and modification in existing connection.-** (1) The distribution licensee shall prominently display on its website and on the notice board in all its offices, the following; namely:-

(a) detailed procedure for grant of new connection, temporary connection, shifting of meter or, service line, change of consumer category, enhancement of load, reduction of load or change in name, transfer of ownership and shifting of premises etc;

(b) Address and telephone numbers of offices where filled-up application forms can be submitted;

(c) Address of website for online submission of application form;

(d) Complete list of copies of the documents required to be attached with the application;

(e) All applicable charges to be deposited by the applicant

2) Application forms for all type of connections as well as modification in existing connection shall be available at all the local offices of the distribution licensee free of cost as well as on its website for free download.

3) The distribution licensee shall create a web portal and a mobile app for submission of online application forms.

4) The applicant shall have an option to submit an application form in hard copy form or an electronic means such as online through web portal or mobile app of distribution licensee.

- 5) *In case hard copy of the application form is submitted, the same shall be scanned and uploaded on the website as soon as it is received and acknowledgement with the registration number for that applicant shall be generated and intimated to the applicant.*
- 6) *In case of online application form through web portal or mobile app of distribution licensee, the acknowledgement with the registration number shall be generated on submission of application.*
- 7) *An application, complete with all the required information, shall be deemed to be received on the date of generation of acknowledgement with registration number. In case of hard copy submission, the acknowledgement with registration number shall be generated within such period as may be specified by the Commission, not exceeding twenty four hours, of receipt of the application, complete with all the required information.*
- 8) *The application tracking mechanism based on the unique registration number shall be provided by the distribution licensee through web-based application or mobile app or through SMS or by any other mode to monitor the status of processing of the application like receipt of application, site inspection, issuance of demand note, external connection, meter installation and electricity flow.*
- 9) *For new connections up to a load of 10 kW or such higher load as may be specified by the Commission, the application form shall be accompanied with only two mandatory documents-*
 1. *Identity proof (i.e. Passport, Aadhar Card etc.) of the applicant; and*
 2. *Proof of applicant's ownership or occupancy over the premises for which new connection is being sought or in the absence of any proof of ownership or occupancy, any other address proof not given as part of identity proof under (1) above. For new connections beyond the specified load, and modification of existing connection, the Commission shall explicitly specify the documents required to be submitted with the application.*
- 10) *In case, an agreement is required to be executed between distribution licensee and the consumer, the same shall become the part of the application form and there shall not be any requirement of a separate agreement form.*
- 11) *The Commission shall specify the maximum time period, post submission of application complete in all respect, not exceeding seven days in metro cities, fifteen days in other municipal areas and*



thirty days in rural areas, within which the distribution licenses shall provide new connection and modify an existing connection:

Provided that where such supply requires extension of distribution mains, or commissioning of new sub-stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Commission.

12) If a distribution licensee fails to supply electricity within the period specified by the Commission, it shall be liable to a penalty as may be determined by the Commission, which shall not exceed one thousand rupees for each day of default.

13) For electrified areas up to 150 kW or such higher load as the Commission may specify the connection charges for new connection shall be fixed on the basis of the load, category of connection sought and average cost of connection of the distribution licensee so as to avoid site inspection and estimation of demand charges for each and every case individually. The demand charges, in such cases, may be paid at the time of application for new connection.

(f) Now let us examine the contentions of the Appellant. Her first contention is that no NOC from Panchayat is required as per Section - 5.30 (8) of the JERC Supply Code Regulations-2018.

(i) As per Section-5.30 (7) of the JERC Supply Code Regulations-2018, it is clearly mentioned that if the Appellant is not a owner but an occupier then NOC from owner be furnished in addition to documents listed in Section-5.30 (1) to (6) . It is further provided that if an occupier is unable to produce NOC from owner, then an Indemnity Bond should be executed. Sections 5.27 mention the mandatory documents.

(ii) The Hon'ble High Court of Calcutta, Circuit Bench at Port Blair vide Order dated -11.02.2011 in bench of Writ Petitions namely Abhimanayu Muzamdar vs. Superintending Engineer ,Electricity Department, Andaman Nicobar Islands has held as under:-

Quote

"When the Rules of 2006 were introduced, the legislatures had in their mind the aforesaid concept of settled possession which was capable of being defended against any threat of dispossession, even at the instance of the owner, except by due process of law as laid down by the Supreme Court and consequently, introduced the definition of the word 'occupier' as lawful occupier without further defining the word "lawful" therein. Therefore, in the absence of any



definition of the word "lawful" in the Rules of 2006, we should apply the principle of "settled possession" laid down by the Supreme Court to the phrase "lawful occupier" appearing in the Rules for implementation of the object of the Electricity Act, 2003 to construe the same as a person in "settled possession" whose possession can be defended against the threat of dispossession otherwise than due process of law even by the lawful owner.

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

14. We have already pointed out that either in the Electricity Act, 2003 or in the 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 title 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 Rules as "the person in settled possession".

15. Since all the lands 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 the 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 in favour of the trespasser in occupation to defeat the title of the lawful owner.

16. We, thus, answer the first question of Reference in affirmative provided the encroacher is in settled possession of the property.

17. In view of our above answer to the first question, the other question becomes academic and redundant, and we propose not to deal with the same.



18. The first point of reference is, thus, answered. In all these writ-applications, the Respondents will give electricity to the writ petitioners if the applicant is found to be in settled possession of the premises in question and they will be entitled to the enjoyment of the electricity so long they are not dispossessed by due process of law on compliance of all other formalities required under the Act."

Unquote

Hon'ble Joint Electricity Regulatory Commission has already provided that connection to an occupier be released subject to furnishing Indemnity Bond.

- (iii) The Respondents have supplied the sample of Indemnity Bond and the Appellant has confirmed its receipt during hearing. Therefore, she is required to follow the procedure as per Supply Code-2018 as amended from time to time to qualify as an occupier, but she has not adhered to it despite notice by the Respondents. Section-5.30(8) is applicable to JJ Cluster/encroachers of Govt. land. The word Municipal in this section means any Panchayat or revenue authority. Applicant herself is not submitting the Indemnity Bond.
 - (iv) Therefore, in my considered opinion, first contention of the Appellant is legally not sustainable and is hereby rejected.
- (g) Her second contention is that no Test Report is required as per "**Electricity (Rights of Consumers) Rules -2020**".
- (i) *Electricity business is a very dangerous/hazardous activity and any lapse at consumer level or supplier level may lead to electrocution, fire and fatal accident. Considering such seriousness of public safety, the powers have been conferred on the Central Electricity Authority (CEA) to frame Rules under the Electricity Act-2003. Accordingly CEA has notified the Safety Rules which provides that except replacement of lamps, fuses etc, all works/fitting should be carried out by a Licensed Electrical Contractor who is authorized to carry out works, do inspection/testing and issue Test Reports. For the public safety it is essential. Similar Regulations have been framed by the CEA regarding installation and operation of Meters.*
The Regulations/procedures are framed by the Hon'ble Joint Electricity Regulatory Commission after considering the National Policy, Electricity Act, various Rules/ Regulations and geographical conditions of the States/UTs , which are required to be followed by the consumers as well as by the Distribution Licensees/Suppliers of Electricity.
 - (ii) *The Annexure-xx of the Electricity Supply Code-2018 clearly*

specify that CEA Regulations should be followed for wiring, material and testing to avoid any electrocution/fatal accident, Appellant has not submitted the Test Report from Licensed Electrical Contractor to prove healthiness of Consumer wiring, despite Notice by Respondent.

(iii) *Therefore her second contention that Test Report is not required is misconceived, against public safety and is hereby rejected.*

(g) Therefore, in my considered opinion, none of the contentions of Appellant are legally sustainable and are hereby rejected, in view of explicit provisions in the Electricity Supply Code Regulation 2018.

5. Regarding issue no 3(ii) as above, as to whether the Appellant is entitled for penalty/ compensation as prayed for?

Since the Appellant herself is to be blamed for not submitting the complete application even after due notification by the Electricity Department, her prayer for penalty/compensation is devoid of merit and is hereby rejected.

(E) DECISION

1. For the reasons discussed above, the appeal of the Appellant is dismissed, being devoid of merits.
2. The orders passed by the Ld. CGRF in Complaint / Representation No. 15/2022 dated-24.08.2022 are upheld, with modification that Appellant needs to apply fresh as per Supply Code-2018 as amended thereof , if she desires an Electricity connection.
3. 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.
4. The appeal is disposed of accordingly.

Handwritten signature in blue ink, followed by the date 20/12/2022.

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

Dated: 20.12.2022

