

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.189 of 2022

Date of e-hearing: 16.02.2023

Date of Order: 20.02.2023

Shri Juber Aahammad Lohar,
Goa

.... Appellant

Versus

The Chief Electrical Engineer,
Electricity Department,
Goa and others

.... Respondents

Date of Order: 20.02.2023

The Appellant has preferred an Appeal against CGRF-Goa order in Complaint no-24/2022 dated-29.11.2022. The appeal/representation received in this office on 02.01.2023 by email and the same was admitted for examination and consideration on 10.01.2023. Copy of the same as received was forwarded to the respondents with a direction to endeavour 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 in the required format, to the appeal/representation within 20 days from the date of Admission Notice.

Final order-189/2022



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(A) Submissions by the Appellant:

Appellant submitted the brief facts as under: -

1. The Order dated 29/11/2022 (Certified copy of the Order is annexed as **Annexure A-1**), hereinafter shall be referred as the "Impugned Order", passed by the Ld. Presiding Officer Ms. Ashley Leonard Camilo Noronha (Chairperson), has grossly erred in passing the Impugned Order and therefore in the circumstances being aggrieved and dissatisfied by said Impugned Order dated 29/11/2022, the Appellant prefers the present Appeal.
2. The fact of the case is that the Appellant is residing at the address given above and basically a Carpenter and carrying out the carpentry work which is the family business activities of the Appellant in their workshop at House No. 71, Opposite of Sai Service, Chicalim, Vasco. Goa in the name & style of "Suhil Furniture".
3. The aforesaid "Suhil Furniture" is started by his father (late) Mr. Anwar Lohar on 01st February 1998 in House No. 71, Opposite of Sai Service, Chicalim, Vasco. Goa and the said Building was owned by Mr. Sripad Chari and Mrs. Shakuntala Sripad Chari and their two children (son - Mr. Datta S. Chari & daughter's name not known) as the legal heirs.
4. Further his father Mr. Anwar Lohar was given the said shop by Mr. Datta S. Chari (one of the Co-Owner, who was a medical student at the material time) who is the son of Mr. Sripad Chari and Mrs. Shakuntala Sripad Chari vide agreement dated 01st February, 1998 (annexed as **Annexure A-2**) wherein Mr. Datta Chari's mother - Mrs. Shakuntala Sripad Chari, wife of late Mr. Sripad Chari is the another Co-Owner of the aforesaid property standing as a confirming party into the Lease Agreement in which the monthly rent of the shop was fixed @ Rs. 2000/- (Rupees two thousand only) with a security deposit of Rs. 25000/- (Rupees Twenty-Five thousand only) and the said Shop is inclusive of the shop facing the main road and a godown/storage room which is in the rear side of the said shop.
5. The Appellant states that his father Mr. Anwar Lohar has followed all the lawful procedures, hence the "Suhil Furniture" at House No. 71, Opposite of Sai Service, Chicalim, Vasco. Goa was registered having the Government's registration No. 56/02/20573/Prov/SSI/Tiny/ dated 01/08/1996 issued by the Directorate of Industries & Mines vide Certificate No. DI/SGDO/CIC/12/240 dated



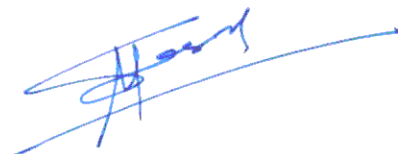
17/02/1998(annexed as **Annexure A-3**) wherein it is certified that the aforesaid unit as a Small-Scale Industry under the category of Cottage Industry and it further states that as per Memorandum No.3/95/77 IPD dated 15/06/1982 issued by the Industries and Labour Department, Secretariat, Panaji, the said unit - "Suhil Furniture" is exempted from obtaining No Objection Certificate from the authorities such as Municipality/ Village Panchayat and Health Department and power used in the Cottage Industry will be less than 5 H.P. and fixed capital investment will be less than Rs. 50,000/-.

6. The Appellant states that since the Co-owners of the property, vide agreement, has given the responsibility of the payments of Electricity to Shri Anwar Lohar pertaining to the business in the "Suhil Furniture"/ 'Suit Premises', Shri Anwar Lohar has applied for two electricity connections (one is three phase and another was single phase) for the aforesaid shop in his name and while applying for the electricity connection, Shri Anwar Lohar has furnished the copies of the Lease Agreement and his Identity Card along with the original No Objection Certificate received from Shri Datta S. Chari to the Electricity Department as a mandatory formality to obtain the electricity connections from the Electricity Department, thus, after satisfying all the formalities, the Electricity Department has given the separate electricity connections in the name of Shri Anwar Lohar, H. No. 71, Chicalim, Goa for running his shop - "Suhil Furniture" vide Connections numbers (i) CA No. 60001531601, Inst. No. 5000167824 & (ii)CA No. 60001531460, Inst. No. 5000167813.
7. The Appellant states that Mrs. Shakuntala Sripad Chari, after the death of her husband Shri Sripad Chari, was facing acute financial crunch and finding extreme difficulties to meet the expenditures of their family consisting of her son and daughter and therefore during the occupancy of the aforesaid shop, the Co-owners wanted to sell the aforesaid shop and offered to the Appellant's father for a total consideration of Rs. 5,00,000/- (Rupees Five Lakhs only), subsequently the Appellant's father has paid various advance/part payments totalling Rs. 2,39,015/- (Rupees Two Lakhs thirty nine thousand and fifteen only) to the Co-Owners towards the purchase of the aforesaid shop between the year 1998 to 2000 in addition to the monthly rents paid to the Co-Owners.
8. The Appellant further states that because of the lethargic attitude to complete and execute the sale deed by the Co-Owners and followed by the car accident, hospitalization and untimely death of the Appellant's father on 16/02/2007, the aforesaid shop could not be registered in the name of the Appellant's father who has already paid Rs. 2,39,015/- towards the advance/ part payment to purchase



the aforesaid shop and thereafter the Appellant has taken over the "Suhil Furniture" and started running the shop with uninterrupted possession and enjoyment till date.

9. The Appellant further states that since the Co-Owners decided to sell the aforesaid shop to the Appellant's father and collected the part payments from the Appellant's father, after the expiry of the aforesaid agreement on 31st January 2003, there was no renewal of any agreement and the parties continued to pay and accept the rents, which was hiked from time to time and the present monthly rent paid by the Appellant to Datta Chari's Wife namely Mrs. Poonam Chari is Rs. 5500/- and the Appellant being the legal heir of Mr. Anwar Lohar is lawfully occupying the aforesaid shop after the death of his father on 16/02/2007 to till date, which all show that from the year 1998 to till date the aforesaid shop is in the uninterrupted possession and enjoyment of the Appellant for the last more than 24 years (more than Twenty-Four Years), and the "Suhil Furniture" is the only source of income of the Appellant and his dependents which includes his old aged widow-mother.
10. The Appellant further states that, after the death of Appellant's father on 16/02/2007, the aforesaid shop - "Suhil Furniture" was in peaceful uninterrupted possession, enjoyment and run by the Appellant, the legal heir of his father and the Appellant has regularly paid the rents thereafter and further in the year 2010, Mr. Datta S Chari and his wife Mrs. Poonam Chari gave the offer to the Appellant to purchase the aforesaid shop (only the front shop admeasuring 24 sqmtrs) for a consideration of Rs. 8,00,000/- (Rupees Eight Lakhs only) and asked the Appellant to make immediate payment of Rs. 5,00,000/- (Rupees Five Lakhs only) and remaining amount shall be paid as per the agreement and immediately the Appellant has paid Rs. 1,00,000/- (Rupees One Lakh only) and given to Mr. Datta S Chari and Mrs. Poonam Chari as a token advance/ part payment in addition to the amounts paid by Appellant's father earlier.
11. Subsequent to the above, as per the details of the building given by Mr. Datta S Chari and Mrs. Poonam Chari, the Appellant has prepared the draft to make the 'Deed of Sale', however, Mr. Datta S Chari and his wife Mrs. Poonam Chari have made some objections and it was again redrafted to their satisfaction and meanwhile the Appellant has asked Mr. Datta S Chari and Mrs. Poonam Chari to furnish the 'No Objection Certificate' from Mr. Datta S Chari's Sister stating that Mr. Datta S Chari's Sister has no objection for the sale of the aforesaid shop to the Appellant. However, thereafter Mr. Datta S Chari and his wife Mrs. Poonam Chari have always given false excuses to execute the Deed of Sale of the



aforesaid shop though the Appellant and his father have already paid Rs. 3,39,015/- (Rupees Three Lakhs Thirty-Nine thousand and fifteen only) to the Co-Owners of the property and further the duo has never furnished the 'No Objection Certificate' from Mr. Datta S Chari's Sister.

12. The Appellant further states that meanwhile Mr. Datta S Chari had severe health issues and as a result of the same his body was paralyzed and completely bedridden and therefore the Appellant used to take him on humanitarian grounds to the hospital at Birla, Zuarinagar, Goa for treatment and during this period also Mr. Datta S Chari and his wife Mrs. Poonam Chari have asked the Appellant to execute the Deed of Sale and the Appellant purchased the Stamp Paper in 2013 for the agreement and the Appellant requested them to follow the lawful procedure and obtain the 'No Objection Certificate' from Mr. Datta S Chari's Sister, however due to malafide intentions, the husband and wife did not obtain the NOC till date and thereafter they never discussed with the Appellant to execute the Deed of Sale of the shop and the Appellant continuously paid the monthly rents of the shop and in fact, Mr. Datta Chari and Mrs. Poonam Chari have cheated the Appellant thereby committed the punishable criminal offences.
13. Mr. Datta S Chari and his wife Mrs. Poonam Chari could not obtain the No Objection Certificate from Mr. Datta Chari's sister, hence their idea to sell the Shop by executing the Deed of Sale was completely foiled. thus Mr. Datta S Chari and the Defendant No. 1 have started relentless harassment to the Appellant and displayed the hostile attitude against the Appellant.
14. The Appellant further states that Mr. Datta S Chari has written a letter dated 12/6/2019 addressed to the Electricity Department, Vasco, Goa seeking them to disconnect the electricity supply given to the "Shop – Suhil Furniture" situated in H. No. 71 (annexed as **Annexure A-4**) and the Assistant Engineer has replied to Mr. Datta S Chari vide letter dated 19/6/2019 (annexed as **Annexure A-5**) to approach Village Panchayat Chicalim and get NOC revoked as the connection exist in the name of Mr. Anwar Lohar. Further the Appellant has also furnished a detail reply dated 27/8/2019 to the Electricity Department against the disconnection letter (annexed as **Annexure A-6**).
15. Mr. Datta S Chari has expired on 08/12/2019 and the Appellant has regularly paid the rents to Mrs. Poonam Chari against the rent-receipts, however, Mrs. Poonam Chari even after collecting the rents regularly, has continued the harassments and she has sent various complaints to several authorities such as Panchayat, Fire Department, Pollution Department, Deputy Collector/ Sub-Divisional Magistrate, Police, Electricity Department by making false allegations of the Appellant stating



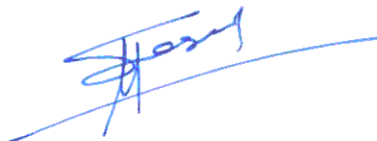
that the Appellant is running the shop/ "Suhil furniture" illegally though the shop is having the Certificate issued by Directorate of Industries & Mines, Government of Goa, South Goa District Office at Margao to M/s. Suhil Furniture, Prop. Mr. Anwar Lohar (father of the Appellant) wherein it is certified that the said unit as a Small-Scale Industry under the category of Cottage Industry and as per Memorandum No.3/95/77 IPD dated 15/06/1982 issued by the Industries and Labour Department, Secretariat, Panaji, the unit is exempted from obtaining No Objection Certificate from other authorities such as Municipality/Village Panchayat and Health Department and the status of the Shop remains the same till date.

16. The undue influence of Mrs. Poonam Chari has resulted with a Notice dated 24th of May, 2022 under Section 111 of Cr.PC from the office of the Deputy Collector & SDM, Mormugao, Vasco da Gama, Goa wherein the Deputy Collector & SDO has asked the Appellant to appear on 20/6/2022 and to his shock that the Appellant was asked to show cause why he should not be required to enter into a bond of Rs. 20,000/- (Rupees Twenty Thousand only) each with surety of like amount under Section 107 of Cr.P.C. to maintain peace for a term of Six Months whereas all the offenses are committed by Mrs. Poonam Chari and her associates against the Appellant and his "Suit Premises" and the Police has instructed her to maintain the status-quo.
17. Subsequent to the above the Electricity Department has issued a letter dated 15/6/2022 (annexed as **Annexure A-7**) stating that the Electricity Department has received a complaint from Shri Datta S Chari seeking for the disconnection of electricity supply/ installation No. 5000167824 given to the Shop "Suhil Furniture" and asked the Appellant to produce the ownership documents and the permission from panchayat, within a period of seven days, failing which the power supply will be disconnected without any further notice and same letter was copied to the Deputy Collector & SDO, Mormugao, Vasco, Goa and the said letter was signed by Mr. Joao Lucas, Assistant Engineer (O&M), Sub Div II (R) of Electricity Department, Vasco, Goa wherein he has not attached any complaint allegedly received from Shri Datta S Chari and the Appellant has failed to understand that how a dead-person can make the complaint in the year 2022 after three years of his demise as Shri Datta S Chari has died on 08/12/2019 and also could not understand the jurisdiction of the Deputy Collector & SDO, Vasco, Goa over the Electricity Department and supply of electricity connection to the consumers.
18. Subsequently the Appellant submitted a part-reply dated 21/6/2022 addressed to the Assistant Engineer (O&M), Electricity Department (annexed as **Annexure A-8**) briefing the facts and referred the earlier letter dated 19/6/2019 issued by the electricity department; further submitted that the Deputy Collector & SDO has no jurisdiction in the matter of electricity connection; the copy of the complaint




allegedly given by the dead-person has not attached by the Electricity Department; and therefore the Appellant has stated that he has approached the authorities for certain information/ documents/ evidences from the concerned authorities.

19. The Electricity Department has again issued another letter/ Final Reminder dated 24/06/2022 which states that this office had given seven days' deadline for submission of valid documents however till date no such documents have been furnished; part reply lacks clarity; directed to furnish the required valid documents i.e. Panchayat NOC/ Trade Tax, Sale Deed/ Agreement, NOC from Owner, failing which power supply will be disconnected without any further notice and this letter was also copied to the Deputy Collector/SDM, Vasco, Goa.
20. Subsequently the Appellant has filed the RTI applications dated 30/6/2022 & 26/7/2022 to the Electricity Department seeking various information such as the copy of the complaint furnished by Shri Datta S Chari; copy of the letter/s issued by the Deputy Collector & SDO addressed to the Electricity Department; copy of the application submitted by Applicant's father Late Shri Anwar Lohar in the year 1998 seeking for the Electricity Connection for "Suhil furniture" along with the supporting documents and the Official Note/ Order passed by the concerned Electricity Department Official granting the Electricity Connection to "Suhil furniture" in Building No. 71 Opp. Sai Service, Chicalim; furnish the provisions of law by which the Assistant Engineer (Elect) has issued the aforesaid two letters seeking for the disconnection of electricity as the Applicant has not defaulted the payments of electricity bills till date; among other information.
21. The documents received from the Electricity Department which clearly show that the father of the Appellant has lawfully obtained the Electricity connection to the "Suit Premises", there is no such complaint from Mr. Datta S Chari in the year 2022; the Deputy Collector & SDO has literally abused and misused his official status and without any provision of law and/ or any jurisdiction, the Deputy Collector & SDO has issued the Memorandum dated 01/6/2022 and Notices dated 20/6/2022 & 13/9/2022 (annexed as **Annexure A-9 Colly**) addressed to the Electricity Department due to his malafide intention, vested interests, ulterior motives and unlawful pecuniary benefits. Subsequently the Appellant has filed another part reply dated 05/7/2022 (annexed as **Annexure A-10**) addressed to the Electricity Department wherein the Appellant has explained all the facts
22. Thereafter the Appellant has received another letter dated 20/9/2022 of "Final Disconnection Reminder", "Sub: Disconnection of Electricity Supply of Installation No. 5000167824 & Inst No. 5000167813" duly signed by Mr. Joao Lucas.



Assistant Engineer (O&M), Sub Div II (R) of Electricity Department, Vasco, Goa (annexed as **Annexure A-11**) wherein the Assistant Engineer has stated that quote "...Further, vide order no. 23/38/SDM/Mag-Misc/2022 dated 13 09 2022 at the inquiry hearing held at the office of the Deputy Collector which was postponed from 16.09.2022 to 19.09.2022, the Deputy Collector had further ordered to disconnect your installations immediately citing lack of ownership documents. This office further extends final 24 hours from today for submission of all valid documents i.e. Panchayat NOC/ Trade Tax, Sale Deed/ Agreement, NOC from owner, failing to which the supply will be disconnected without any further notice" unquote, the aforesaid letter was also copied to the Deputy Collector & SDO, Vasco, Goa and interestingly none of these letters issued by Mr. Joao Lucas, Assistant Engineer have been copied to higher-ups of the Electricity Department.

23. Subsequently the Appellant has submitted a detail reply dated 22/9/2022 (annexed as **Annexure A-12**) attached all the relevant documents and explained to the Assistant Engineer that the Appellant, the legal heir of his father is running the shop/"Suhil Furniture" for their livelihood and the electricity connection taken by his father in the year 1998 is after submitting all the relevant documents and there is no any change in the condition and circumstances till date and the shop is given the Certificate by the Directorate of Industries & Mines, Government of Goa, South Goa District Office at Margao, Goa stating that the aforesaid unit as a Small-Scale Industry under the category of Cottage Industry and as per Memorandum No.3/95/77 IPD dated 15-06-1982 issued by the Industries and Labour Department, Secretariat, Panaji, the said unit is exempted from obtaining No Objection Certificate from the authorities such as Municipality/Village Panchayat and Health Department, the Appellant and his father have already paid 75% value of the aforesaid shop to its owner but the owners have cheated the Appellant; further in view of the uninterrupted possession for the last more than 24 years and also under the provisions Under Article 65 and Schedule 65 of Limitation Act R/w Section 27 of Limitation Act, the Appellant is the owner of the aforesaid Carpentry/Wooden workshop at House No. 71, Opposite of Sai Service, Chicalim, Vasco by way of Adverse Possession and therefore the Appellant has filed the Regular Civil Suit No. RCS/58/2022 before the Court of Hon'ble Civil Judge, Vasco, Goa claiming the Title of Ownership; further the acts of the Deputy Collector/SDM seeking to disconnect the installations is absolutely illegal, without any jurisdiction and Mrs. Poonam Chari is not the legal owner of the House No. 71, Opposite of Sai Service, Chicalim, Vasco, Goa, hence the complaint of Mrs. Poonam Chari and the letters of Mr. Ravishekhar Nipanikar, the Deputy Collector/ SDO, Vasco, Goa should not be entertained as they are trying to use the Electricity Department and other Government authorities as a tool with their malafide intention and vested interests to cow down the Appellant. thus the same



letter was copied to the Chief Electrical Engineer, Head Office, Panaji, Goa and the Superintending Engineer Circle I (South), Margao, Goa and requested to give instruction to Mr. Joao Lucas, Assistant Engineer stop the illegalities and harassment of the Appellant.

24. The Appellant submits that on 23/9/2022, when the Appellant opened his shop/ "Suhil Furniture" in morning wherein he has realized the Electricity Connection given to the shops was disconnected by Mr. Joao Lucas, Assistant Engineer on the instructions of Mr. Ravishekhar Nipanikar, the Deputy Collector/ SDO.
25. Subsequently the Appellant has rushed to the office of the Superintending Engineer, Circle I, Margao, Goa and explained all the illegal activities committed by Mr. Joao Lucas, Assistant Engineer in collusion with Mr. Ravishekhar Nipanikar, the Deputy Collector/ SDO and the Superintending Engineer in the presence of the Appellant called up Mr. Joao Lucas, Assistant Engineer on phone and asked him whether Mr. Ravishekhar Nipanikar, the Deputy Collector/ SDO has given any written Order to disconnect the electricity for which Mr. Joao Lucas, Assistant Engineer (AE) replied "No" and the Superintending Engineer has told him that the AE is not working under the Deputy Collector/ SDO and should not act upon the oral instruction of any such officials and asked Mr. Joao Lucas, Assistant Engineer to follow the law and give the re-connection of electricity immediately. Thereafter the Superintending Engineer has advised the Appellant to go and meet the AE for the re-connection of electricity.
26. Thereafter the Appellant has come back from Margao to Vasco and met Mr. Joao Lucas, Assistant Engineer (AE) in his office and requested for the re-connection of electricity, however, Mr. Joao Lucas, Assistant Engineer (AE) has blatantly refused of receiving any direction from the Superintending Engineer and refused to give the re-connection of electricity.
27. The Appellant has realized that Mr. Joao Lucas, Assistant Engineer (AE) is playing all the fouls as he is not interested to do the re-connection of electricity to the shop/"Suhil Furniture" due to the influence of the Deputy Collector and meanwhile Mrs. Poonam Chari has become the "Panch Member" of Chicalim Village Panchayat through the Panchayat Election and the AE wants to "please" Mrs. Poonam Chari, a widow and the neighbor of Mr. Joao Lucas, Assistant Engineer.



28. The Appellant has thereafter approached the Respondent No.1/ Chief Electrical Engineer wherein the Appellant met the subordinate officials as the Respondent No. 1 was not available in the office, and these subordinate officials have immediately called up Mr. Joao Lucas, Assistant Engineer (AE) and instructed him that the AE cannot act upon the order of the Deputy Collector as the AE is working in the Electricity Department and he is bound to follow the instructions/ Order of his superiors in Electricity Department and not the Deputy Collector and asked the AE to give the re-connection of the electricity.
29. Subsequently the Appellant has filed an application on 26/9/2022 addressed to Assistant Engineer, Electricity Department, Vasco (annexed as **Annexure A-13**) stating that on the basis of the Order No. 23/38/SDM/Mag-Misc/2022 dated 13.09.2022 by the Deputy Collector and at the enquiry hearing held in the office of the Deputy Collector from 16.9.2022 to 19.9.2022, ordering to disconnect the electricity connection, without any fault of the undersigned, the electricity supply was disconnected, further the higher-ups from Margao as well as from Panjim have directed the AE to re-connect the electricity connection, which was willfully disobeyed by him, thus AE has knowingly and deliberately deprived the Constitutional Rights of the Appellant and therefore the Appellant has asked the Assistant Engineer, Electricity Department, Vasco, Goa to furnish the Disconnection Order issued by the AE, Order No. 23/38/SDM/Mag-Misc/2022 dated 13.09.2022 issued by Deputy Collector & SDM, the Order issued after 19/9/2022 by Deputy Collector & SDM and the provision of Law under which the disconnection has been executed and the Appellant has informed the AE that these documents are urgently required to file the Writ Petition before the Hon'ble High Court of Bombay at Goa, however, till date the Appellant has not received any of these letters.
30. The Appellant has again filed an application on 28/9/2022 addressed to Assistant Engineer, Electricity Department, Vasco (annexed as **Annexure A-14**) stating that the Assistant Engineer grossly abused and misused the official status thereby after issuing the letter u/ref. No. AE/VSG/O&M/S/D-II(R)/Tech-01/1155/22-23 dated 20/09/2022, Subject: Disconnection of Electricity Supply of Installation No. 5000167824 & Inst No. 5000167813 and even after receiving the reply dated 22/9/2022 from the Appellant, on the basis of the Order of the Deputy Collector disconnected the electricity connection, without any fault of the Appellant, the electricity supply was disconnected and subsequently the Applicant has filed the application dated 26/9/2022 and asked the AE to furnish various documents and the provision of law in order file the Writ Petition before the Hon'ble High Court of Bombay at Goa, however this authority is playing all the fouls and not furnishing



the above thereby grossly, knowingly, deliberately and continuously depriving the Constitutional Rights of the Appellant and in view of the violation of the Constitutional Rights, the Appellant requested the AE to provide the certified copies of the documents in order file the Writ Petition before the Hon'ble High Court of Bombay at Goa, but till date the documents are not provided.

31. Thereafter the Applicant has received a letter from Mr. Joao Lucas, Assistant Engineer dated 29/9/2022 (annexed as **Annexure A-15**) stating that the Electricity Department has sent disconnection notices on numerous occasions citing clarity with regards to valid documents i.e. Panchayat NOC/Trade Tax, Sale Deed/Agreement, NOC from owner, however the Appellant has failed to produce the above necessary documents and one consumer, Smt. Poonam Chari has already claimed ownership of the commercial premises by submitting house tax receipt in her name and as per JERC Supply Code 2019, the Chapter 9, Clause, 9.3.2 & Clause 9.7.1, this office has initiated disconnection of electricity and further stated that the Order 13/9/2022 of Deputy Collector can be received by RTI and further Order issued after 19/9/2022 issued by Deputy Collector is yet to be received by the Electricity Department and this is the first time, Mr. Joao Lucas, Assistant Engineer has copied the letter to his higher-up i.e. Executive Engineer, Div-XI, Vasco, Goa.
32. Subsequently, the Appellant has filed the request dated 03/10/2022 addressed to the Executive Engineer, Div-XI, Vasco, Goa under Grievance Mechanism seeking for the reconnection (annexed as **Annexure A-16**) wherein the Appellant has explained all the facts and attached the relevant documents and clarified that the JERC Supply Code 2019, Chapter 9, Clause 9.3.2. & Clause 9.7.1, does not state such disconnection as the Appellant's father who is the Customer of Electricity Department has already taken the necessary permission from the Government authority to run the shop and being the son and legal heir of his father, the Appellant is the present Customer of Electricity Department, which is permitted by law i.e. the Customer of his/her legal heirs are treated as the Customer, hence the Clause 9.3.2. does not attract and further the Clause 9.7.1. states the "the termination of the Agreements" i.e. the Agreement between Customer and the Electricity Department and the Appellant or his late father has not terminated the agreement with the Electricity Department, hence the Clause 9.7.1. also does not attract and personally met the Executive Engineer along with Legal Counsel and shown and explained the provisions to the Executive Engineer, and above that the Appellant has brought to the notice of the Executive Engineer that the Appellant is suffering a gross loss of Rs. 5500/- per day from the day of disconnection and the



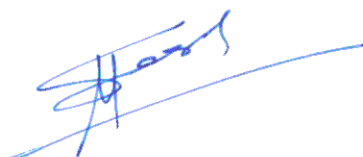
entire family is depended upon the aforesaid shop for their livelihood, but all the requests have gone to the deaf ears.

33. Meanwhile on 13/10/2022 the Appellant and his legal Councils met Shri Rajiv Ramdas Samant, Superintending Engineer (South), Margao and during the meeting he checked up with Mr. Joao Lucas, Assistant Engineer with the actual issues and Mr. Joao Lucas, AE has replied that he has disconnected the electricity on the complaint of Mrs. Poonam Chari, however the Appellant has told to Shri Rajiv Ramdas Samant, Superintending Engineer that Mrs. Poonam Chari is regularly collecting the rent of the shop and how she can file complaint against the Appellant and Shri Rajiv Ramdas Samant, Superintending Engineer has admitted that this is a good ground to give the re-connection. Subsequently the Appellant has submitted another letter dated 14/10/2022 addressed to Executive Engineer, Vasco (annexed as **Annexure A-17 Colly**) along with the "**Rent Receipts**" issued by Mrs. Poonam Chari to the Appellant including the latest Rent Receipt issued on 13/10/2022 which was paid through the Google-Pay money transaction and requested for the re-connection, but the electricity department officials have willfully neglected their official duties especially Mr. Joao Lucas, Assistant Engineer was so adamant and refused the requests due to his vested interests and ulterior motives.
34. Further the Appellant's father has enjoyed the uninterrupted possession and enjoyment of the "Shop/Suhil Furniture" from 01/02/1998 to till his death on 16/02/2007 and thereafter the Appellant has continued, enjoyed the uninterrupted possession and enjoyment of the "Shop/Suhil Furniture" from 16/02/2007 to till date, hence the "Shop/Suhil Furniture" was under the uninterrupted possession and enjoyment of the Appellant for the last more than 24 years and Six Months and the same is still continuing further, and the real owners have not made any claim for the "Shop/Suhil Furniture" within the prescribed period of law and also not objected against the uninterrupted possession through due process of law. hence the Appellant is entitled for the title of the "Shop/Suhil Furniture" by way of adverse possession. not only entitled for the title of the "Shop/Suhil Furniture" by way of adverse possession but also he and his father have paid the money to the owners towards the purchase of the "Shop/Suhil Furniture" and Mr. Joao Lucas, Assistant Engineer is fully aware of the same.
35. The continuous human rights violations, harassments and victimization at the hands of Mr. Joao Lucas, Assistant Engineer of Goa Electricity Department have been brought to the notice of the National Human Rights Council – Goa, hence the NHRC-Goa has taken it very seriously in view of the gross violations of **Right**



to **Livelihood and Right to work** by the Electricity Department, hence NHRC-Goa has issued a letter dated 20/10/2022 (annexed as **Annexure A-18**) addressed to the Respondent No. 1 requesting for the reconnection of electricity thereby to restore the **Right to Livelihood and Right to work** of the Appellant by Goa Electricity Department.

36. Further it has come to the knowledge of the Appellant vide letter dated 21/10/2022 (annexed as **Annexure A-19**), that the office of the Respondent No. 1 has continuously asked the Respondent No. 2/Executive Engineer, Vasco on **Most Urgent/ Important** basis to give the explanation of the illegal acts committed by Mr. Joao Lucas, Assistant Engineer, however the offices of the Respondent No. 2 & 3 were not furnishing any satisfactory replies to the Respondent No. 1.
37. Due to continuous human rights violations, harassments and victimization at the hands of Mr. Joao Lucas, Assistant Engineer of Goa Electricity Department at Vasco, Goa, the Appellant has been compelled to write his grievance/ complaint to all the officials of Goa Electricity Department including the Respondent No 1 and other concerned Officials including the Hon'ble Chief Minister, Chief Secretary, Secretary to Governor etc. vide email dated 01/11/2022 (annexed as **Annexure A-20**), and brought to the notice of the illegal acts of Mr. Joao Lucas, Assistant Engineer and requested to take necessary action against Mr. Joao Lucas, Assistant Engineer, Vasco and requested for the re-connection of the electricity.
38. Meanwhile the Appellant has filed an RTI application to the office of the Executive Engineer in Vasco, Goa seeking to furnish the "*details of Trade Tax (number, date and issuing authority) submitted by each Consumers prior to electricity power supply connections given for their shops/ commercial establishments by Electricity Department under the jurisdiction of the Executive Engineer, Vasco*" and the RTI reply u/Ref. No. EE/DIV.XI/TECH38(d)/127/2022-23 dated 04/11/2022 signed by Mr. Pradeep Naik, Executive Engineer, Elec. Dept, Vasco shows that **N.A. i.e. Not Available**. Subsequently vide email dated 7/11/2022, the Appellant has brought to the notice of all the officials of Electricity Department that if such details are not available with the Electricity Department of other Consumers, why Mr. Joao Lucas, Asst. Engineer is unnecessarily targeting the Appellant and his shop though the Appellant has submitted the Government Certificate to run the shop, which clearly shows that Mr. Joao Lucas, AE is literally abusing and misusing his official status due to his personal vendetta against the Appellant and also **MAKE HAPPY HIS NEIGHBOUR-LADY, WIDOW** which is not in good taste of law and it is clear case of ultra-vires on the part of Mr. Joao Lucas, AE.



39. Mr. Joao Lucas, Assistant Engineer, Goa Electricity Department at Vasco, Goa, who was working continuously in one office i.e. in Vasco Office for the last more than 20-25 years has been immediately transferred from Vasco Office to Goa Electricity Department at Xeldem Office almost 50 Kms away as a punishment transfer which proves that he is guilty.
40. Further, the aforesaid email dated 01/11/2022 sent by the Appellant addressed to the office of the Hon'ble Chief Minister was also copied to the Consumer Grievances Redressal Forum (CGRF), Government of Goa, hence the Ld. Presiding Officer of Consumer Grievances Redressal Forum (CGRF), Government of Goa has sent the Notice to the Appellant and fixed the date of hearing on 18/11/2022 via video-conferencing.
41. Meanwhile, the Appellant has received the reply dated 17/11/2022(copy annexed as **Annexure A-21**) filed by the Respondent No.3/ Assistant Engineer wherein it is disclosed that after disconnecting the electricity connection on 23/9/2022, Mr. Joao Lucas, Assistant Engineer, Goa Electricity Department at Vasco, Goa was finding a reason to submit before the Electricity Department, hence Mr. Joao Lucas, Assistant Engineer has written a letter dated 06/10/2022 (after 13 days of the disconnection) to the Functional Manager of Directorate of Industries and Mines, North Goa, Panaji, Goa seeking the validity of the Certificate No. DI/SGDO/CIC/12/240 dated 17/02/1998 issued by the Directorate of Industries & Mines to Appellant's father Late Anwar Lohar, (copy annexed as **Annexure A-22**) subsequently the Deputy Director of the Directorate of Industries & Mines, Panaji, Goa has given a reply dated 10/11/2022 (copy annexed as **Annexure A-23**) stating that the Certificate under No. 56/02/20573/Prov/SSI/Tiny/ dated 01/08/1996 was valid for a period of 5 years from the date of issue and there is no renewal of provisionally registered certificate.
42. During the hearing on 18/11/2022, the Advocate of the Appellant has orally argued in length and brought all the information referred above one by one to the Ld. Presiding Officer Ms. Ashley Leonard Camilo Noronha (Chairperson) and convinced but the Ld. Presiding Officer has asked only one question that whether any bill is pending for payment to the Electricity Department and the Advocate of the Appellant has replied that there is no bill pending for payment till date which was agreed by the Respondents. The Advocate appeared for the Respondents stated that the disconnection is made as per law.



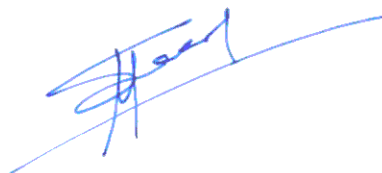
43. After hearing the matter on 18/11/2022, the copy of the Order dated 29/11/2022 was received by post by the Appellant was only on 07/12/2022 after 19 days wherein the Ld. Presiding Officer Ms. Ashley Leonard Camilo Noronha (Chairperson) has stated that the disconnection of the electricity was validly done by the Electricity Department in accordance with Clause 9.3.2 of JERC Supply Code 2019(copy annexed as **Annexure A-24**) and the complaint and the grievances of the Appellant was dismissed.
44. On perusal of the Order dated 29/11/2022, it is revealed that the Ld. Presiding Officer Ms. Ashley Leonard Camilo Noronha (Chairperson) has grossly erred in passing the Impugned Order and therefore in the circumstances being aggrieved and dissatisfied by said Impugned Order dated 29/11/2022, the Appellant prefers the present Appeal on grounds mentioned below besides others which shall be urged at the time of arguments.

GROUNDS

- (I) The Impugned Order passed by the Ld. Presiding Officer of Consumer Grievances Redressal Forum (CGRF), Government of Goa is patently bad in law and completely unjust.
- (II) The Impugned Order passed by the Ld. Presiding Officer of CGRF is illegal, perverse and is totally contrary and against the principles of natural justice and the settled position of law and therefore the Impugned Order is liable to be quashed and set aside.
- (III) The matter/ dispute of electricity-disconnection has been started in July 2022 by Mr. Joao Lucas, Assistant Engineer on the alleged letter/ complaint of Mr. Datta Shripad Chari who has died in the year 2019 and on the directions vide letters of the Deputy Collector/ S.D.M., Vasco, Goa, though the Deputy Collector/ S.D.M. has no jurisdiction over the Electricity Department and / or its affairs wherein Mr. Joao Lucas, Assistant Engineer has not mentioned in any of his letters about the JERC Supply Code or any of its Clauses as the same was an after-thought, which has been conveniently and knowingly suppressed by the Ld. Presiding Officer of CGRF as this issue was taken up during the proceedings and made the arguments on 18/11/2022.
- (IV) After the Main Action i.e. "electricity-disconnection", Mr. Joao Lucas, Assistant Engineer was trying to find the appropriate reason to justify his illegalities and therefore the entire proceedings of the Electricity Department were similar situation of that "*a Court has convicted a person in hurry burry and thereafter issuing the charge-sheet*" which is against the principles of natural justice and against all the canons of law, hence the Ld. Presiding Officer of the CGRF is ought to have noted the same, however the Ld. Presiding Officer was complete bias and committed the partiality thereby the Ld. Presiding Officer of the CGRF has caused total miscarriage of justice.



- (V) The Ld. Presiding Officer of the CGRF is fully aware that the Electricity Department has given the electricity connection to the 'shop/Suhil Furniture' in Building No. 71 at Chicalim, Vasco, Goa on confirming the License/ Certificate issued by the Government Authorities/ Directorate of Industries & Mines in the year 1998 and the NOC issued by the owner of the said building for running the Carpentry/Wooden workshop and even if the Certificate has been alleged to have expired, the validity of the electricity connection does not become invalid and all these evidences/ communications made by the Appellant to the authorities are available before the Ld. Presiding Officer, however being bias and prejudiced, the Ld. Presiding Officer has grossly erred in its duties.
- (VI) The Ld. Presiding Officer is fully aware that there are thousands of electricity connections have been given even to the foot-path venders and encroachers across the State of Goa wherein they are not having any proper registered place or even the license/ Certificate from the authorities and even the RTI application to the office of the Executive Engineer in Vasco, Goa seeking to furnish the "*details of Trade Tax (number, date and issuing authority) submitted by each Consumers prior to electricity power supply connections given for their shops/ commercial establishments by Electricity Department under the jurisdiction of the Executive Engineer, Vasco*" was replied vide the RTI reply u/Ref. No. EE/DIV.XI/TECH38(d)/127/2022-23 dated 04/11/2022 signed by Mr. Pradeep Naik, Executive Engineer, Elec. Dept, Vasco shows that **N.A. i.e. Not Available**, hence the Ld. Presiding Officer has not taken the consideration of any of these facts before passing such Impugned Order.
- (VII) Further, during the arguments on 18/11/2022, the Appellant's Advocate has brought to the notice of the Ld. Presiding Officer of the CGRF all the issues narrated above including that Mrs. Poonam Chari is not the registered owner of the Building No. 71 at Chicalim, Vasco, Goa and further in view of the uninterrupted possession for the last more than 24 years and also under the provisions Under Article 65 and Schedule 65 of Limitation Act R/w Section 27 of Limitation Act, the Appellant is the owner of the aforesaid Carpentry/Wooden workshop at House No. 71, Opposite of Sai Service, Chicalim, Vasco by way of Adverse Possession as such Mr. Joao Lucas, Assistant Engineer should not have entertained the complaint of Mrs. Poonam Chari and the Deputy Collector has no jurisdiction over the Electricity Department, the Clauses No. 9.3.2 and 9.7.1. of JERC Supply Code do not apply to the present case, however the Ld. Presiding Officer has blatantly and deliberately ignored all these facts.
- (VIII) The Ld. Presiding Officer of the CGRF is fully aware that Mr. Joao Lucas, Assistant Engineer, the resident of Vasco was deliberately abusing and misusing his official status to 'make happy' a widow and his neighbor – Mrs. Poonam Chari, hence he was given the punishment transfer by Electricity Department from Vasco Office to a place 50 Kms away from his residence and Mr. Joao Lucas was in Vasco Office continuously for the last more than 25 years of his service and despite of knowing all these facts, the Ld. Presiding Officer of the CGRF being bias and prejudiced, not even made any whisper of any of these facts in the Impugned Order thereby caused the miscarriage of justice.



- (IX) All the evidences are showing in favor of the Appellant including the reply dated 17/11/2022 and the attachments given by the Respondent No. 3, wherein the letter of the Deputy Director of the Directorate of Industries & Mines, Panaji, Goa dated 10/11/2022 stating that *the Certificate under No. 56/02/20573/Prov/SSI/Tiny/ dated 01/08/1996 was valid for a period of 5 years from the date of issue and there is no renewal of provisionally registered certificate, because once the Unit has been declared as a Small Scale Industry then it is not required to declare every now and then that it is a "Small Scale Industry" and therefore there is no renewal of such Certificate until the Small Scale Industry undergoes the drastic changes or become a Medium or Large Scale Industry.*
- (X) Further, it is a small Wooden/ Carpentry Workshop manned by the Appellant and his one or two assistants and under such circumstances, it is not required to renew every now and then that it is a "Small Scale Industry" and the Ld. Presiding Officer of the CGRF is fully aware that the electricity connection to this "Small Scale Industry" is given on the basis of the Certificate issued by the Government and it is not required to submit the renewed Certificates every now and then to the Electricity Department.
- (XI) Mere reading of the Clause 9.3.2 of JERC Supply Code 2019, states that "*The supply may be disconnected temporarily in following cases: 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" where as in the case of the 'shop/Suhil Furniture' in Building No. 71 at Chicalim, Vasco, Goa is given the electricity on the basis of the License/ Certificate issued by the Government Authorities in the year 1998 and the NOC issued by the owner of the said building for running the Carpentry/Wooden workshop (Necessary Permission is already obtained) and further no authority, especially the Directorate of Industries & Mines has Not Withdrawn the Permission given to the 'shop/Suhil Furniture' in Building No. 71 at Chicalim, Vasco, Goa, hence the Clause 9.3.2 of JERC Supply Code 2019 is not at all applicable to the present case, thus the Ld. Presiding Officer has grossly and miserably erred to study the facts of case and provision of law.*
- (XII) Further the findings of the Ld. Presiding Officer is that "*The crux of the matter is the validity of the Provisional SSI registration certificate*" whereas the Deputy Director (Industries), Directorate of Industries & Mines vide letter dated 10.11.2022 has nowhere stated that certificate dated 01.08.1996 is withdrawn by the Directorate of Industries & Mines, being so, the Clause 9.3.2 of JERC Supply Code 2019 has no relevance in the disconnection of the electricity other than the colorable exercise of power and abuse and misuse of the official capacities by the Assistant Engineer which was unlawfully and unjustifiably upheld by the Ld. Presiding Officer Ms. Ashley Leonard Camilo Noronha (Chairperson) vide Impugned Order, hence the Impugned Order is wholly illegal, perverse and liable to be quashed and set aside and immediate re-connection of electricity to the 'shop/Suhil Furniture' in Building No. 71 at Chicalim, Vasco, Goa is warranted
- (XIII) The Ld. Presiding Officer Ms. Ashley Leonard Camilo Noronha (Chairperson) is duty bound to read the provision of the JERC Supply Code as it is especially the



Clause 9.3.2 of JERC Supply Code 2019 and twisting the language of the statute is forbidden by law, before passing any such Impugned Order.

- (XIV) The rightful interference of National Human Rights Council – Goa in the present matter is absolutely important due to the continuous human rights violations, harassments and victimization at the hands of Mr. Joao Lucas, Assistant Engineer of Goa Electricity Department hence the NHRC-Goa has taken it very seriously in view of the gross violations of **Right to Livelihood and Right to work** by the Electricity Department, and therefore the NHRC-Goa has justly interfered in the matter vide their letter dated 20/10/2022 addressed to the Respondent No. 1 requesting for the reconnection of electricity to the 'shop/Suhil Furniture' thereby to restore the **Right to Livelihood and Right to work** of the Appellant by Goa Electricity Department and later on it is noted that the Ld. Presiding Officer Ms. Ashley Leonard Camilo Noronha (Chairperson) has also continued the same human rights violations, harassments and victimization against the Appellant which is totally condemnable.
- (XV) The Appellant is not a Corporate like Reliance or Tata or Adani running thousands of establishments whereas the Appellant is running a small Carpentry/ Wooden Workshop and earning revenue for the day-to-day livelihood from the same shop for his family consisting of old-age sick mother and small children and due to the closure of the said shop in the absence electricity-connection since 23/9/2022 to till date i.e. more than Three Months, which has already caused irreparable injuries and heavy financial losses @ Rs. 5,500/- per day for which the electricity department, particularly Mr. Joao Lucas, AE is responsible.
- (XVI) The Ld. Presiding Officer of the CGRF has utterly failed to peruse the provision of the JERC Supply Code and the evidences submitted by the Appellant and appreciate the facts in judicious manner.
- (XVII) The Impugned Order is wholly illegal, incorrect, unconstitutional, impropriety, in breach of the principles of natural justice, gross violations of Human Rights, arbitrary, null and void because it also suffers on grounds I to XVI above and need to be set aside.
- (XVIII) The Appellant reserve the right to advance more grounds at the time of arguments and hearing this Appeal.
- (XIX) The Impugned Order was passed on 29/11/2022, the Certified Copy of the Order was booked and sent by registered Post by CGRF on 06/12/2022 and the same was delivered by the Postal authority to the Applicant on 07/8/2022. This Appeal is therefore filed in time.
- (XX) The Certified copy of the Impugned Order is annexed hereto. There is no other Appeal pending before any other forum as on date except the present Appeal.
- (XXI) The Appellant has filed the Rejoinder and written arguments refuting all the assertions of the Respondents in the counter/additional reply.
- (XXII) The Appellant therefore prays that this Hon'ble Authority be pleased to;
- (a) Pass an Order quashing and setting aside the Impugned Order dated 29/11/2022 passed by Ms. Ashley Leonard Camilo Noronha, the Chairperson, Consumer Grievances Redressal Forum (CGRF), Government of Goa, Electricity



Department, Vidyut Bhavan, 4th Floor, Vasco-da-Gama, Goain Complaint / Representation No. 24 / 2022 / 165.

- (b) Pass an Order directing the Respondents to immediately give the re-connection of the electricity to the 'shop/Suhil Furniture' in Building No. 71 at Chicalim, Vasco, Goa.
- (c) Pass such Order/s as this Hon'ble Authority may deem fit and proper under such circumstances.
- (d) Pass an Order as to cost.

(B) Submissions by the Respondents: -

Shri Pradip M. Naik, working as Executive Engineer in the Electricity Department, Division- XI, Panaji state as under :-

1. That the deponent is working as Executive Engineer, and is authorized by Electricity Department, Government of Goa being Deemed Licensee) 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
 - 1) To 4) No Comments
 - 5) A consumer Shri Anwar Lohar had applied for two electricity connections in the O/O Assistant Engineer, Sub-Div.II (R), Vasco after obtaining NOC from Directorate of Industries & Mines vide DI/SGDO/CJC/12/240 dated 17.02.1998 and a Lease Agreement which was between Shri Datta Chari and Shri Anwar Lohar and connections are released after completion of departmental formalities.
 - 6) The consumer Shri Anwar Lohar had applied for two electricity connections in the O/O Assistant Engineer, Sub-Div.II (R), Vasco after obtaining NOC from Directorate of Industries & Mines vide DI/SGDO/CJC/12/240 dated 17.02.1998 and a Lease Agreement which was between Shri Datta Chari and Shri Anwar Lohar. The Lease Agreement was made with a condition such that it was for a period of 11 months effective from 1st February 1998 to 31st December 1998 & further renewable for equal period till 5 years upto 31.08.2003. The electricity connection was required for running his business at H No.71, Chicalim, Vasco. After completing departmental formalities, the connections were released on 09.03.1998 vide CA No.60001531460 (LTC) & CA No.60001531601 (LTI) respectively.
 - 7) To 13) No Comments
 - 14) The Assistant Engineer S/D-II(O&M) received a letter from Shri Datta Chari vide inward no.821 dated 12.06.2019 for disconnection of electricity supply of Shop No.71 based on ownership. wherein it was learnt that Shri Anwar Lohar had expired.



Based on above letter, Sub-divisional Engineer vide letter no. SDE-II/VSG/Tech-01/992 /2019-20 dtd 16/8/2019 had made letter to Shri. Lohar to produce valid NOC, permissions for running the commercial business in his name. However, the Shri. JuberLohar in his reply dated 27.08.2019 only produced the Lease Agreement between Anwar Lohar and Datta Chari dated 01.02.1998, and failed to produce any legal documents for running the business in his name. (Annexure 1 & 2)

- 15) Assistant Engineer, Sub-Div.II(R), Vasco has informed that Smt. Poonam Chari wife of Shri. Datta Chari vide letter dtd 6/5/2020 had requested for disconnection of electricity supply for the said shop along with the Letter from the Village Panchayat Chicalim, house tax receipt in the name of Poonam Chari, death certificate of Anwar Lohar & Death certificate of Datta Chari. (Annexure 3 to 6).
- 16) On 3/6/2022 O/O Assistant Engineer, Sub-Div.II(R), Vasco received memorandum no. 23/38/SDM/Mag-Misc/2022/1476 dtd 1/6/2022 from Dy. Collector/SDO, Mormugao, Vasco-da-Gama, Goa to submit detailed report with regards to complaint from Mrs. Poonam Chari against JuberAhammadLohar, on the unauthorized use of electricity connection provided to third party having no authorization to run the business. (Annexure 7)
- 17) The Assistant Engineer has informed that as the complainant Mrs. Poonam Chari was continuously pursuing the matter, he had further made letters to Shri Juber Ahammad Lohar for producing valid legal documents in his name vide
 - a) AE/VSG/O&M/S/D-II(R)/Tech-01/551/2022-23 dated 15.06.2022
 - b) AE-II(R)/VSG/Tech-01/636/2022-23 dated 24.06.2022The Assistant Engineer has informed that, However, Shri Juber Ahammad Lohar had only produced documents in the name of Shri Anwar Lohar and failed to produce any legal documents, permissions from competent authority in his name. (Annexure 8 to 9)
- 18) The Assistant Engineer has informed that, However, Shri JuberAhammad Lohar had only produced documents in the name of Shri Anwar Lohar and failed to produce any legal documents, permissions from competent authority in his name
- 19) Reminder was issued by the O/o The Assistant Engineer, Sub-Div.II(R). Vasco vide letter no. AE-II (R)/VSG/Tech-01/636/2022-23 dtd 24/6/2022. (Annexure 9).
- 20) RTI application was received and reply was forwarded to the party. The arrears for CA No. 60001531460 as on date is Rs. 18,364/- and for CA No. 60001531601 is Rs. 789/-
- 21) No Comment

- 22) As the matter was referred to the Office of the Deputy Collector by the complainant Mrs. Poonam Chari, the then Asst. Engineer Shri Joao Lucas was called upon for the hearing vide notice no. 23/38/SDM/Mag-Misc/2022/1738 dtd 20/6/2022. However, the hearings were postponed to subsequent dates i.e. on 24.06.2022, 27.06.2022, 26.07.2022, 29.08.2022. The then Asst. Engineer Shri Joao Lucas was finally called upon for the hearing vide notice no. 23/38/SDM/Mag-Misc/2022/ dtd13/09/2022 which was further postponed and finally during the hearing held at the Office of the Deputy Collector dated 19.09.2022, the Assistant Engineer has informed that the Deputy Collector had verbally ordered disconnection of electricity supply citing lack of ownership documents in the name of Shri Juber Ahammad Lohar.
The Assistant Engineer S/D-II(O&M) sent reminder vide letter AE/VSG/O&M/S/D-II(R)/Tech-01/1155/2022-23 dated 20.09.2022, to Juber Ahammad Lohar to produce legal documents of the premises in his name. The Assistant Engineer, Sub-Div.II(R), Vasco has informed that , even this time he produced the same old documents in the name of Shri Anwar Lohar and failed to produce any legal documents, permissions from competent authority in his name.
The Deputy Collector in his proceedings dtd 27/9/2022 had mentioned that Office had followed the process of fair play and natural justice by giving opportunity to the affected person and completed the fair process. (Annexure 10 to 13)
- 23) The Assistant Engineer, Sub-Div.II(R), Vasco has informed that a letter was forwarded to The Functional Manager, Directorate of Industries and Mines, Panaji vide ref AE-II/VSG/Tech-01/1315/2022-2023 dated 06.10.2022 for verification of the certificate issued to Shri Anwar Lohar Ref DI/SGDO/12/240 dated 17.02.1998 which was submitted by Shri Anwar Lohar while applying for electricity connection for the said premises. The reply received from the Deputy Director (Industries) vide ref DITC/Reg/Mormugao/2021-22/3515 dated 10.11.2022 is enclosed herewith wherein it is informed that the certificate with ref 56/02/20593/Prov/SSI/Tiny dated 01.08.1996 was valid for a period of 5 years from the date of issue and there is no renewal of provisionally registered certificate. (Annexure 14 to 16)
- 24) The Assistant Engineer, Sub-Div.II(R), Vasco has informed that the installation was temporarily disconnected on 22/9/2022 as Shri JuberAhammadLohar was given enough time for producing legal documents in his name for running the commercial activity in the premises having installation in the name of Shri Anwar Lohar.
- 25) To 28) No Comments.
- 26) The Assistant Engineer, Sub-Div.II(R), Vasco has informed that the installation was temporarily disconnected on 22/9/2022 as Shri Juber Ahammad Lohar had not produced legal documents in his name for running the commercial activity in the premises having installation in the name of Shri Anwar Lohar
- 27) The Said application is addressed to Deputy Collector & SDM, Vasco by Shri Juber Lohar.



- 28) The Assistant Engineer, Sub-Div.II(R), Vasco issued letter no. AE/VSG/O&M/S/D-II(R)/Tech-31/1247/22-23 dtd 29/9/2022 to Shri. Ahammad Lohar.
- 29) The installation is currently in the name of Shri Anwar Lohar but Shri Juber Ahammad Lohar was just running the business. However, he did not have any valid documents in his name to continue using the installation whereas Smt. Poonam Chari is already claiming ownership of the premises.
- 30) No Comments.
- 31) No comments.
- 32) This Office has received letter from higher Authority vide no. 114/13/CEE/Tech/Com/1107 dtd 31/10/2022 enclosing letter no. NHRC-Goa /Electricity Dept/2022 dtd 20/10/2022 to submit report. Report has been forwarded to higher authority.
- 33) No Comments
- 34) Public Grievance report has been forwarded to higher authority.
- 35) No Comments
- 36) No Comments
- 37) No Comments
- 38) The Assistant Engineer, Sub-Div.II(R), Vasco has informed that a letter was forwarded to The Functional Manager, Directorate of Industries and Mines, Panaji vide ref AE-II/VSG/Tech-01/1315/2022-2023 dated 06.10.2022 for verification of the certificate issued to Shri Anwar Lohar Ref DI/SGDO/12/240 dated 17.02.1998 which was submitted by Shri Anwar Lohar while applying for electricity connection for the said premises. The reply received from the Deputy Director (Industries) vide ref DITC/Reg/Mormugao/2021-22/3515 dated 10.11.2022 has informed that the certificate with ref 56/02/20593/Prov/SSI/Tiny dated 01.08.1996 was valid for a period of 5 years from the date of issue and there is no renewal of provisionally registered certificate.
- 39) The arrears for CA No. 60001531460 as on date is Rs. 18,364/- and for CA No. 60001531601 is Rs. 789/-
- 40) No Comments
- 41) No Comments.

GROUNDS

- I)Not Agreed, the Hon'ble CGRF Vasco has issued order after verifying thoroughly from the both parties. The order issued by CGRF; Vasco is justified.
- II)Not Agreed, the Hon'ble CGRF Vasco has issued order after verifying thoroughly from the both parties. The order issued by CGRF; Vasco is justified.
- III)The Assistant Engineer S/D-II(O&M) received a letter from Shri Datta Chari vide inward no.821 dated 12.06.2019 for disconnection of electricity supply of Shop No.71 based on ownership, wherein it was learnt that Shri Anwar Lohar had expired.
- IV)Not Agreed, the Hon'ble CGRF Vasco has issued order after verifying thoroughly from the both parties. The order issued by CGRF; Vasco is justified.



- V) Not Agreed, the Hon'ble CGRF Vasco has issued order after verifying thoroughly from the both parties. The order issued by CGRF; Vasco is justified.
- VI) No Comment.
- VII) Ownership document i.e. house tax receipt submitted by Smt. Poonam Chari.
- VIII) No Comment
- IX) Certificate from Industries & Mines (Annexure 15 to 16 enclosed)
- X) Annexure 15 & 16 enclosed and lease agreement has expired in 2003
- XI) The installation is currently in the name of Shri Anwar Lohar but Shri Juber Ahammad Lohar was just running the business. However, he did not have any valid documents in his name to continue using the installation whereas Smt. Poonam Chari is already claiming ownership of the premises.
- XII) Annexure 20 & 21 enclosed and lease agreement has expired in 2003
- XIII) No Comments
- XIV) No Comments
- XV) No Comments
- XVI) No Comments
- XVII) Not Agreed and order passed by Hon'ble CGRF Vasco is correct
- 42) No Comments
- 43) No Comments
- 44) No Comments
- 45) PRAYER
- (a) No Comments
- (b) Order passed by CGRF is correct
- (c) Order passed by CGRF is correct
- (d) Order passed by CGRF is correct
- 46) In the view of the above, the request of appellant may not be considered.

(C) CGRF- Goa's Order in complaint No-24/2022 dated-29-11-2022 preferred for Appeal:

Ld. CGRF-Goa, has passed the following order: -

Order.



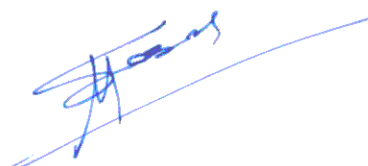
In view of the foregoing, we conclude that the temporary disconnection of the complainant's installation was validly done by the Department in accordance with Cl. 9.3 (2) of JERC Supply Code 2019. There is no merit in this complaint, and the same stands dismissed.

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, Email ID: ombudsman.jercuts@gov.in within one month from the date of receipt of this order.

(D) Deliberations during e-hearing on 16.02.2023 :-

1. Appellant's Submission:

- (a) Adv. Seeja K.S-Appellant's representative, reiterated her version as submitted in the Appeal/Rejoinder.
- (b) She submitted that clause 9.32 of the Supply Code is not applicable to her case.
- (c) The Appellant has replied to Respondents letter dated-16.08.2019 and again their letter dated-15.06.2022 and for around 36 months no disconnection was done because there was no illegality as far Electricity Department is concerned. The Respondents are misguiding that lease agreement with the owner has expired.
- (d) Electricity Department has no authority to decide the issue between landlord and tenants. Whereas the Appellant and his father are in settled possession of this shop for the last 25 years. There is no dispute with the Respondents as all the bills were paid for the last 25 years. The disconnection at the behest of Deputy collector and owner is against the provisions of Electricity Act, Supply Code Regulations and is illegal, arbitrary. After disconnecting at their behest, Respondents are finding a reasons to justify their illegal action, thereby depriving the Appellant of basic amenities and violating Article-21 of the Constitution which guarantee a right to live with dignity which includes water and electricity as upheld by Apex Court.
- (e) She further submitted that regarding their title in the premises they have already approached the Civil Court and Electricity Department cannot surpass the powers of a Civil Court as the matter is pending.
- (f) She further submitted that they have paid all the dues of a permanently disconnected commercial connection of around Rs.18,000/-.
- (g) She further pleaded to allow to file written arguments within 2 days, which was granted and the Appellant has filed the same reiterated their earlier stand.




2. Respondent's Submission:

- (a) Shri Pradip M Narvekar-Executive Engineer for the Respondent reiterated their version as submitted in the counter reply/Additional reply to the Appeal.
- (b) He submitted that till today the Appellant has not submitted any documents on which basis the temporary connection was done.
- (c) He further submitted that no application for change of name has been received from the Appellant.
- (d) Strangely, he requested that the so-called owner Ms. Poonam Chari, who is present in his office also want to join this Video conferencing. When asked whether she was impleaded as a Intervenor in CGRF, he replied in negative. He was informed that no application was also filed with this Court and accordingly she cannot be allowed at the stage of Final hearing now.
- (e) He further pleaded to file a written arguments within 2 days, which was granted.

(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 action of the Respondent was legal in disconnecting the electricity connection of an occupier, who has a dispute with his owner?
 - ii. Whether the agreement with Electricity Department is valid?
- 4. (a) Regarding issue no 3(i) as above, as to Whether the action of the Respondent was legal in disconnecting the electricity connection of an occupier, who has a dispute with his owner?
 - (b) Following provisions have been provided in the Supply Code Regulations- 2018, notified by the Hon'ble Commission dated-26.11.2018 as amended from time to time: -
 - (i) " 9. **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.

9.2.1 Pre-payment meters will be designed to automatically cut off supply when the amount credited is exhausted. This shall however not be treated as a disconnection and the supply will be resumed whenever the meter is recharged.

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.

Permanent Disconnection

9.7 The supply shall be disconnected permanently in following cases:

- (1) On the termination of the Agreement;
- (2) If the cause for which the supply was temporarily disconnected is not removed within the notice period:

Provided that if the service of the consumer remains continuously disconnected for 180 days, not being a temporary disconnection upon request of the consumer, the Agreement shall be deemed to be terminated on the expiry of 15 days or after expiry of the initial period of agreement, whichever is later without prejudice to the rights of the Licensee or of the consumer under the Act for recovery of any amount due under the Agreement.

5. The certificate dated-17.02.1998 issued by the Directorate of Industries is reproduced below: -

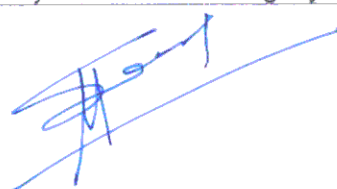
No DI/SGDC/CIC/12/240
Government of Goa,
Directorate of Industries & Mines
South Goa District Office,
D-III, Apna Bajar,
Margao-Goa

Dated 17/02/1998

CERTIFICATE

This is to certify that Shri Anwar Lohar
resident of Flat no. 1 IInd Floor sector kailash building
Vasco-da-gama, Goa /started unit in
the name and style Suhil furniture for manufacture of wooden
furniture at H.No. 71 chicalin- Goa provisionally registered
under No. 56/02/20573/prov/SSI/tiny/ dated 01-06-1996

as a small Scale Industry under the category of Cottage Industry. As per



Memorandum No..3/95/77 IPD dated 15-06-1952 issued by the Industries and labour Department, Secretariat, Panaji, the unit is exempted from obtaining No Objection Certificate from the Authorities such an Municipality/ Village Panchayat and power used in the cottage Industry will be less than 5 H.P and fixed capital investment will be less than Rs. 50,000/-

This has been issued as per affidavit signed by the party.

Sd/-

(STAMP)

(A. C.Kanat)
Functional Manager

To,
M/sSuhilFurniture ,
Prop. Mr. Anwar Lohar
Flat No.1 IInd Floor,
Greater Kailash Building,
Vasco-da Gama, Goa

6. The letter dated-10.11.2022 replied by the Directorate of Industries is reproduced below: -

DIRECTORATE OF INDUSTRIES TRADE & COMMERCE
GOVERNMENT OF GOA
Udyog Bhawan, 1st Floor, Panaji Goa- 403001

No. DITC/Reg/mormugao/2021-22/3515 Dated 10 11 2022

To
The Assistant Engineer (O&M),
Sub Div II (R), Electricity Department,
Vidyut Bhawan, Near KTC Bus Stand.
Vasco-da-Gama

Sub:- Certificate issued to Shri Anwar Lohar
Ref:- DI/SGDO/CIC/12/240 dated17.02.1998

Sir,

I am directed to refer to your letter No. AE-II VSG/TECH-01/1315/2022-2023 dated 06.10.2022 on the subject cited above and to inform you that the provisionally registered Certificate under No. 56/02/20593/Prov/SSI/Tiny dated 01.08.1996 was valid for a period of 5 years from the date of issue and there is no renewal of provisionally registered certificate.

Yours faithfully

(Ashwani V. Bhagat)
Deputy Director (Industries)

7. The Hon'ble High Court of Calcutta, Circuit Bench at Port Blair vide Order dated - 11.02.2011 in bench of Writ Petition No. 423 of 2010 titled Abhimanayu Muzamdar vs. Superintending Engineer, Electricity Department, Andaman Nicobar Islands and others has held that a person in settled possession can be evicted by due process of law in proceeding in a competent court. The relevant part is reproduced as under :-

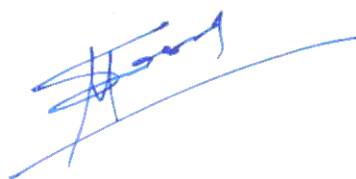
Quote

"9.

.....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.

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.

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".

Unquote

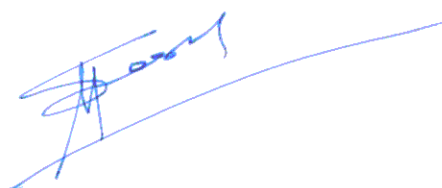
8. In all the letters/notices dated 16/8/2019, 15/6/2022, 24/6/2022, 20/9/2022 and 29/9/2022, written by the Respondents to the Appellant, only emphasis was to supply the following ownership documents. The relevant parts are reproduced below:-
- (i) **Letter dated-16/8/2019 :-**
"You are requested to produce the valid ownership documents of the premises and permission from the Panchayat are within a period of seven days."
- (ii) **Letter dated- 15/6/2022: -**
"Therefore, You requested to produce the ownership documents of the premises and permission from the Panchayat are within a period of seven days, failing which power supply will be disconnected without any further notice."(15/6/2022).
- (iii) **Letter dated- 24/6/2022: -**
"You have given a part reply in your letter dated-24/6/2022, which lacks clarity. Hence you are directed to furnish the required valid documents i.e., Panchayat NOC/Trade Tax, Sale Deed/Agreement, NOC from Owner." (24/6/2022).
- (iv) **Letter dated- 20/9/2022: -**
"This office further extends final notice for 24 hours from today for submission of all valid documents i.e., Panchayat NOC/Trade Tax, Sale Deed/Agreement, NOC from Owner, failing which the power supply will be disconnected without any further notice." (20/9/2022).

The supply was finally disconnected on 23/9/2022 as the Appellant was not able to produce valid ownership documents. Therefore, it is very clear that Respondents were asking the Appellant regarding the ownership whereas Appellant is in settled possession of the rented premises. This exercise was being conducted at the behest of the owner/complainant, which is beyond the jurisdiction of the Electricity Department and amounts to interference in the peaceful possession of the Appellant against the dictum of the Hon'ble High Court to follow due process of law for eviction.

9. Now let us examine the contentions of the Respondents in justifying the disconnection of LTI(Industrial) connection.



- i. There first contention is that Appellant has not shown the documents regarding ownership. This issue has been examined in para-8 above. The Respondents were overstepping their jurisdiction in asking the ownership documents at the behest of the so-called owner.
 - ii. Their second contention is that it was verbally ordered by the Hon'ble Dy collector cum SDM. As per records, no speaking order has been produced in exercise of power delegated to Hon'ble Dy collector cum SDM. Only the proceeding Register of day-to-day proceedings of the SDM office was supplied. This cannot be termed an Executive speaking Order in exercise of some powers delegated under statute/Act, if any. Therefore, their second plea carries no weight as verbal orders are no orders unless confirmed in writing as per delegation of powers.
 - iii. Their third plea is that the Appellant has no valid certificate from Directorate of Industries. I have perused the certificate as above. Nowhere it is written that certificate has a validity. If it has a validity, it was open to the Directorate of Industries to issue a show cause notice to the Appellant to get it renewed failing which it could be withdrawn or cancelled and Electricity Department could have been informed for taking necessary action to disconnect. Nothing was objected by Directorate of Industries for around 22 years. The connection was disconnected on 23.09.2022 and a clarification was arranged after the disconnection by the Electricity Department on 10.11.2022 (after 66 days of disconnection), just to justify their colourable action of disconnection as per Section 9.3(2) of the Supply Code Regulations-2018. The whole action of the Respondents was a colourable exercise and does not inspired confidence. Basically, it appears to be a case of landlord-tenant dispute and the action of the Respondents was of assuming the powers of a Civil Court by the forcing the tenant to evict the premises by disconnecting his supply.
10. The action of the Respondents in disconnecting the electricity connection at the behest of the landlord/Deputy Collector as enumerated above is against the Electricity Act/Rules/Regulations and dictum of the Hon'ble High court as stated above. The presence of the so-called owner Ms Poonam Chari in the office of the Executive Engineer at the time of Final hearing through video conferencing further proves that the action of the Respondents to be a colorable exercise, as Ms. Poonam Chari was neither a party in the CGRF proceeding nor before this Court.
11. In view of above submissions, in my considered view the action of the Respondent in disconnecting the electricity connection of an occupier was illegal and the Appellant is entitled to relief for reconnection of his LTI (Industrial) Electricity Connection.



Ld. CGRF has completely erred in passing the order in this case in Complaint no-24/2022 dated-29.11.2022. Accordingly, it was ordered in the Interim order dated-20.01.2023 and reconnection is to be continued as per decision in this Appeal.

12. Regarding issue no.- 3(ii) as above, as to whether the present agreement with Electricity Department is valid?
 - (a). Following provisions have been provided in the Supply Code Regulations, 2018, notified by the Hon'ble Commission: -

“Transfer of Connection

- 5.85 The consumer shall not without prior consent in writing of the Distribution Licensee assign, transfer or part with the benefit of the Agreement executed with the Distribution Licensee nor shall part with or create any partial or separate interest thereunder in any manner.
- 5.86 A connection may be transferred in the name of another person upon death of the consumer or in case of transfer of the ownership or occupancy of the premises, upon filing an application form in the prescribed format given in either **Annexure IV or V** (as applicable) for change of name by the new owner or occupier:

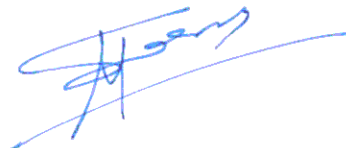
Provided that such change of name shall not entitle the applicant to require shifting of the connection from the present location.

5.87 The Licensee shall deal with applications relating to change of consumer's name due to change in ownership/occupancy of property in accordance with the procedure detailed below.

- (1)
- (2)
- (3)

5.88 The Licensee shall deal with applications relating to transfer of consumer's name to legal heir in accordance with the procedure detailed below:

- (1) The applicant shall apply for change of consumer's name in the format prescribed in **Annexure V** to this Supply Code, 2018, with a copy of the latest bill duly paid. The application form shall be accepted on showing the Registered Will/deed, Succession/Legal heir Certificate, Mutation in municipal/land records or any other proof of legal heirship. The Licensee shall process the application form in accordance with Regulations of this Supply Code, 2018.



- (2) Security deposit lying with the Licensee in the name of original consumer shall be transferred to its legal heir to whom the connection is to be transferred and the shortfall in security deposit calculated as specified in **Annexure XVIII** of this Supply Code, 2018, if any, shall be payable by the applicant.
- (3) The change of consumer's name shall be affected within two billing cycles after acceptance of application.
- (4) Any charge for electricity or any sum other than charge for electricity as due and payable to Licensee, which remains unpaid by a deceased consumer or the erstwhile owner/occupier of any land/premises as the case may be, shall be a charge on the premise transmitted to the legal representative/ successors-in-law or transferred to the new owner of the premise as the case may be, and same shall be recoverable by the Licensee as due from such legal representative or successor-in-law or new owner/occupier of the premises as the case may be. "

(b). Hon'ble Delhi High Court in Tata Power Delhi Distribution vs Neeraj Gulati has observed as under in para-18, which is reproduced as under: -

"18. It appears that the petitioner therein relied upon the judgment of the Supreme Court in the case of Isha Marbles case v. Bihar State electricity Board (1995) 2 SCC 618. The Division Bench insofar as Isha Marbles (supra) is concerned, was of the view that in the said decision the facts were the previous owner of the premises in question had mortgaged/hypothecated the premises to secure a loan from the State Financial Corporation. Since the loan was not repaid, the property was auctioned/sold under Section 29 of the State Financial Corporation Act. The auction purchaser applied for reconnecting of the electricity supply to the premises, which had been disconnected for non payment of dues by the previous owner. The question arose, whether the auction purchaser had to pay the electricity dues of the previous owner to get restoration of the electricity connection. The Supreme Court held that the Electricity Board had no charge over the property and the Board could not seek enforcement of the contractual liability against the third party. The Division Bench also held that the aforesaid view of Isha Marbles (supra) was repeated by the Supreme Court in Ahmedabad Electricity Company Ltd. (supra)."

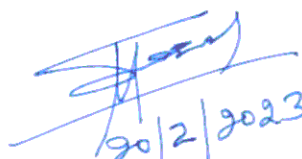
- (c) In view of above discussions, I am of the considered view that the Appellant should have got the electricity connection transferred in his name/firm after the death of his father in the year 2007, rather than consuming the electricity in the name of a third/deceased party. The agreement between Electricity Department and with his deceased father has become null and void



(F) DECISION

- (i) For the reasons discussed above, the appeal of the Appellant is allowed.
- (ii) The Orders in Complaint No-24/2022 dated-29.11.2022, passed by Learned CGRF-Goa is set aside.
- (iii) Since the existing agreement has become null and void, the Electricity Department-Goa/Deemed Distribution Licensee is directed to issue notice to the Appellant to apply for Transfer of connection/Change of name or a new connection in his name within 90 days. If the Appellant fails to file an application as per Supply Code Regulations-2018, this electricity connection be disconnected and action be taken to recover the pending dues. If Appellant applies for Transfer of connection/Change of name or a new connection as per provisions of Supply Code Regulations-2018, the same be expedited as per said Regulations.
- (iv) 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.
- (v) 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.
- (vi) 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.
- (vii) The appeal is disposed of accordingly.

Dated
20.02.2023


20/2/2023
(M.P. Singh Wasal)
Electricity Ombudsman
For Goa & UTs (except Delhi)