

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.173 of 2022

Date of e-Hearing: 08.09.2022

Date of Order: 12.09.2022

Smt. E. Janaki Amma,
Andaman & Nicobar Islands
Port Blair

.... Appellant

Versus

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

**....
Respondents**

Parties present:

Appellant(s)

Shri E. Balkrishna,
Appellant's Representative

Respondent(s)

Shri Deepak Mondal,
Assistant Engineer



Date of Order: 12.09.2022

The Appellant has preferred an Appeal against CGRF-A&NI for not passing the order in the prescribed time limit in Complaint No-ANI/CGRF/242/22-23/02 dated-19.04.2022. The appeal/representation received in this office on 16.07.2022 by email and the same was admitted for examination and consideration on 18.07.2022. Copy of the same as received was forwarded to the Respondents with a direction to file the counter reply in the required format, to the appeal/representation within 20 days from the date of Admission Notice. The Respondents have filed the counter reply and a copy of the same was supplied to the Appellant, who has filed a Rejoinder.

Settlement by Mutual Agreement

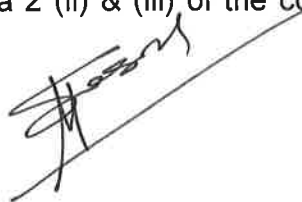
Both the parties appeared through video conferencing before the Electricity Ombudsman on 08.09.2022 and were heard. Shri Deepak Mondal-Assistant Engineer for the Respondent informed that the Electricity Department has taken a decision not to release the connection to encroachers. Efforts were made to reach a settlement between the parties through the process of conciliation and mediation. However, no settlement mutually agreeable could be reached. The hearing therefore, continued to provide reasonable opportunity to both the parties to put forth their pleading on the matter.

(A) Submissions by the Appellant:

Appellant submitted the brief facts as under: -

That I had applied a new electric connection for my house along with all relevant documents on the encroached land. I am in a settled possession and staying with family. Hon'ble Himachal Pradesh High court has issued a landmark judgement dated- 22.10.2018 , wherein it was decided that water and electricity supply are a part of right to life under Article 21 of the Constitution of India. Similarly Hon'ble Madras High court issued judgement dated- 10.10.2013 that electricity supply is a legal right and denial of power supply is a violation of Human rights.

Further, as per judgement dated- 11.02.2011 of the larger Bench of Hon'ble High Court –Calcutta, I am entitled to get the electric connection on the encroachment land, as I am in a settled possession of the property and staying with family. CGRF-A&NI has not passed any order even after lapse of more than 80 days, hence Appeal to Electricity Ombudsman. In the Rejoinder she stated that Assistant Engineer-III, has contacted her more than 2-3 times over phone and requested to apply new connection through online, but I refused the advice, as any consumer can apply offline as per JERC Regulation. Further the submission made at para 2 (ii) & (iii) of the counter reply/ Affidavit filed by



the Respondent is strongly disputed and challenged on the ground that earlier Ombudsman Order / Judgement dated 08/08/2022 in Appeal No. 168 of 2022 (Smt. Waheeda Ali vs The Superintending Engineer) has quashed the policy decision taken by the higher authority of A&N Administration for not providing electricity connections to the Govt. encroachment land in Andaman & Nicobar Islands.

In the light of the facts and circumstances as mentioned above, my humble PRAY is to provide electricity connection on usual payment on humanitarian ground. For this act of generosity, we shall remain ever grateful.

(B) Submissions by the Respondents :

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

1. That parawise counter reply is as under :-

- i. The authorized officer of licensee i.e., Assistant Engineer, Sub-Division-III, HQ Division, has contacted to applicant over mobile phone and requested to visit his office for discussion on the matter so as to redress the grievance by mutual consent if feasible, but she didn't come.
- ii. That, as per policy decision taken by higher authority of A&N Administration, providing of electricity connection to govt. encroachments land in Andaman and Nicobar Islands on the basis of Affidavit has been temporarily stopped since December,2021, till further directions / communications except the directions issued in respective of judgments of Hon'ble Courts orders for providing of electric connection to encroachers in A&N Islands.
- iii. However, on receipt of any clear-cut legal direction from A&N Administration in respect to providing of electricity connection to govt. encroachments land in Andaman and Nicobar Islands, the department shall provide electricity connection to Smt. E. Janaki Amma, W/o. E. Janaki Rao, R/o. Rajaji Nagar, Calicut village, Port Blair, after observing all codal formalities, at its earliest.



iv. In light of above submission made herein it is humbly requested that the appellants prayer may kindly be dismissed.

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

(i) After registering the complaint on 19.04.2022, Ld. CGRF-A&NI, has neither heard the matter nor has passed any order within the stipulated time as required as per Consumer Grievance Redressal Forum and Ombudsman Regulations-2019, as the appointment to the vacant posts of Chairman and Member of CGRF have not been finalized by the Distribution Licensee/Andaman & Nicobar Islands Administration till date.

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

1. Appellant's Submission:

- (a) Shri E. Balkrishna-Appellant's representative, reiterated their version as submitted in the Appeal/ Rejoinder.
- (b) Due to network issues at the end of the Appellant, he was heard on mobile phone.
- (c) He was requested to apply offline as well as online so that Respondents can consider their request for release of connections

2. Respondent's Submission:

- (a) Shri Deepak Mondal – Assistant Engineer, for the Respondent reiterated his version as submitted in the counter reply to the Appeal.
- (b) He further informed that Superintending Engineer is busy in a urgent meeting with the A&N administration and will join soon.
- (c) He further informed that as the Appellant has applied off -line, the application was returned. The Appellant was requested by AE concerned to apply through on-line portal. However, no application along with necessary documents for release of connection has been received in their office till today.

(E) Findings & Analysis: -

1. I have perused the documents on record and pleadings of the parties.
2. The documents submitted by the parties have been believed to be true and if any party submitted a fake/forged document, and then they are liable to be prosecuted under relevant Indian Penal Code/Rules/Regulations.
3. The issue which have arisen for considerations in the present Appeal is as under:



i. Whether the Appellant is entitled to relief for grant of Electricity Connection, as prayed for?

4. (a) Regarding issue no 3(i) as above, as to whether the Appellant is entitled to relief for grant of Electricity Connection, as prayed for?

(b) Following provisions have been notified in the Electricity Act, 2003: -

Section 43 of the Electricity Act, 2003

Quote

"43. Duty to supply on request - (1) Every distribution licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity of such premises, within one month after receipt of the application requiring such supply:

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 Appropriate Commission;

Provided further that in case of a village or hamlet or area wherein no provision for supply of electricity exists, the Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area;

(2) It shall be the duty of every distribution licensee to provide, if required, electric plant or electric line for giving electric supply to the premises specified in sub-section (1):

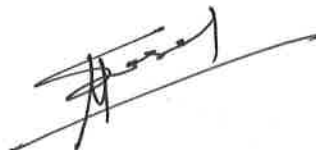
Provided that no person shall be entitled to demand, or to continue to receive, from a licensee a supply of electricity for any premises having a separate supply unless he has agreed with the licensee to pay to him such price as determined by the Appropriate Commission.

(3) If a distribution licensee fails to supply the electricity within the period specified in sub-section (1), he shall be liable to a penalty which may extend to one thousand rupees for each day of default".

(c) 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-
Error! Reference source not found. 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:

(d)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 and others has examined the issue as to whether unauthorized occupiers, encroachers of any premises and squatters of any premises are legally entitled to file an application under Section 43 of the Electricity Act, 2003 claiming status as 'occupier' and thereby may seek supply of electricity in the premises as constructed on encroaching the land; and, whether under the Works of Licensees Rules, 2006, the Distribution Licensee lawfully can provide electricity supply line in due discharge of their duties and what is meaning of word 'occupier' in said Act on reflection of Rule 2006 and 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.

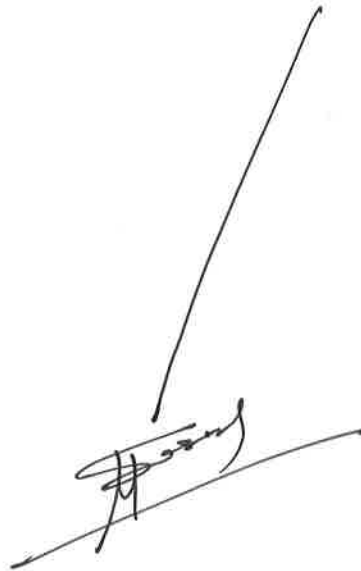
16. We, thus, answer the first question of Reference in affirmative provided the encroacher is in settled possession of the property.

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

(e) As gathered from the judgment of Hon'ble High Court of Calcutta, Circuit Bench at Port Blair in Order dated -11.02.2011 in bunch of Writ Petitions as stated in para (d) above and namely Abhimanayu Muzamdar vs Superintending Engineer, Electricity Department, Andaman Nicobar Islands and others case, even the Government of India vide their letter dated-17.01.2003 and 11.03.2003 to the address of Chief Secretary , Andaman & Nicobar Administration has taken a policy decision to allow the release of electricity connections to such encroachers subject to certain restrictions . The copies these letters are also reproduced below:-



No. U. 13034/3/2003-ANL

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS

New Delhi, the 17th January, 2003

To
Shri Pradeep Singh,
Chief Secretary,
Andaman & Nicobar Administration,
PORT BLAIR

Subject: Sanction of electric connections to the families which have encroached in government revenue land in A&N Islands.

Sir,

I am directed to reference to your d.o. letter No. 1- 32/2000 I-(c) dated the 14th January, 2003 regarding the subject mentioned above and to say that there is no objection if the families which have encroached on government revenue land are sanctioned temporary electric connections subject to the following conditions:

- (a) The electricity shall be supplied for domestic use only.
 - (b) The facility will be extended to only those families which had encroached on government revenue land after 1978 but prior to April 1993;
 - (c) The grant of this facility shall not entitle the person concerned to claim regularization of the construction made on the encroached land or occupation of such encroached land; and
 - (d) The facility shall be extended only if the anti-fire and other safety requirements are met with.
2. It is requested that further appropriate action in the matter may please be taken under intimation to us.

Yours faithfully,

Sd/-

(VIKRAM DEV DUTT)
Deputy Secretary to the Govt. of India
Tele: 23092436

No. U. 13034/3/2003-ANL
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS

New Delhi, the 11th March, 2003

To
Shri Pradeep Singh,
Chief Secretary,
Andaman & Nicobar Administration,
PORT BLAIR

Subject: Sanction of electric connections to the families which have encroached in government revenue land in A&N Islands.

Sir,

I am directed to refer to the A & N Administration's d.o. letter No. 1-18(7)/2001-Power dated 6th March, 2003 on the above cited subject and to say that in view of the circumstances indicated therein, the Central Government have 'no objection' to grant permanent electric connections to the families which have encroached on revenue land in A & N Islands, subject to fulfilling the conditions indicated in this Ministry's letter of even number dated 17th January, 2003.

Yours faithfully,

Sd/-

(VIKRAM DEV DUTT)
Deputy Secretary (CPS)



(f). Recently Hon'ble Punjab and Haryana High Court in CWP NO-10299, 10808, 11120 of 2022 titled Davinder and others vs Union Territory Chandigarh, vide their order dated-01.06.2022 has observed as under and relevant part is reproduced below:-

Quote

"Adjourned to 20.09.2022 with the interim orders to continue but with it further directed, as has already been directed earlier (in CWP No.10967 of 2022 on 20.05.2022), that the petitioners obviously being human beings and citizens of India, are also entitled to the right of life in terms of Article 21 of the Constitution of India and whereas we again very obviously realize that they are occupying land that does not strictly belong to them, however, admittedly it is public land vested in the State and if they are not members of the public we do not know who else is; and consequently, Chandigarh being a Union Territory, the competent authority in the Union of India would file an affidavit providing a viable scheme for rehabilitating such like people who out of necessity have to occupy jhuggis on such land which otherwise does not obviously belong to them personally. The request for vacation of stay as has been vehemently made by counsel for the U.T. Chandigarh is declined at this stage, with a viable scheme to be provided.

The land involved in these petitions admittedly being public land, in the affidavit to be filed on behalf of the Union of India, it would be stated also as to why housing colonies to rehabilitate genuine jhuggi dwellers who have been living there for many years (as per verification criteria already in place in such cases), be not constructed in the form of flats etc., (to be constructed on the occupied land itself).

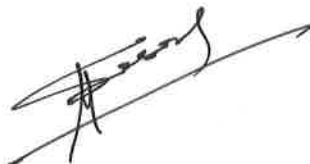
Naturally, once such like land is exhausted after accommodating people who have been living in such jhuggis for years if not decades, the Union Territory being a small town, if there is no other place left for jhuggis, such jhuggis would not come up in the future.

It is to be noticed that the Government of Haryana has come up with an almost continuously running Aashiana scheme to rehabilitate such like persons and consequently, that scheme would also be looked into to determine the viability of a similar scheme in the Union Territory, Chandigarh; or any other better scheme.

Interim order to continue till that date.

It is also to be further noticed that illegal structures have also come to our notice as are occupied by persons who are undertaking commercial ventures like sale of marble, junk (kabadi shops) etc., for whom land is already stated to have been earmarked at different places but with those schemes not being actually given effect to by way of proper rehabilitation of those persons for the last twenty years or more. Of course, that is subject matter of a different petition.

A photocopy of this order be placed on the files of the other connected cases."



Unquote

(g). Hon'ble Supreme Court of India vide order dated-30.01.2020 in Civil Appeal No.- 852 of 2020 titled Chairman/Managing Director, U.P. Power Corporation & others vs Ram Gopal , while dealing with the issue of applicability of Judgments on the similarly situated persons has observed as under:-

Quote

18. We may hasten to add that these principles may not, however, apply to judgments which are delivered in-rem. The State and its instrumentalities are expected in such category of cases to themselves extend the benefit of a judicial pronouncement to all similarly placed employees without forcing each person to individually knock the doors of courts. This distinction between operation of delay and laches to judgments delivered in-rem and in personam, is lucidly captured in State of Uttar Pradesh v. Arvind Kumar Srivastava, laying down that:

“22.1. The normal rule is that when a particular set of employees is given relief by the court, all other identically situated person need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time-to-time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

22.2. However, this principle is subject to well-recognized exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in case of similarly situated persons be extended to them, and/or the acquiescence, would be valid ground to dismiss their claim.

22.3. However, this exception may not apply in those cases where the judgment pronounced by the Court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the court or not. **With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated persons. Such a situation can occur when the subject-matter of the decision touches upon the policy matters, like scheme of regularization and the like (see K.C. Sharma v Union of India [K.C. Sharma v. Union of India, (1997) 6SCC 721:1998 SCC (L&S) 226].** On the other hand, if the judgment of the court was in personam holding that benefit of the said judgment shall accrue to the parties before the court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment, those who want to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence.”

(Emphasis applied)



Unquote

- (h) Now let us examine the contentions of the Respondents as to not release the connections to such encroachers of Government land until clear cut legal directions are issued by the Andaman and Nicobar Islands Administration.

Their contention carries no weight as no document was produced which shows that any decision has been taken after legally considering the provisions of the Electricity Act-2003, provisions notified by the Hon'ble Joint Electricity Regulatory Commission for Goa And UTs in the Supply Code Regulations-2018 and the dictum passed by Hon'ble High Court of Calcutta, Circuit Bench at Port Blair vide Order dated -11.02.2011 in bunch of Writ Petitions as stated in para (d) above and namely Abhimanayu Muzamdar vs Superintending Engineer ,Electricity Department ,Andaman Nicobar Islands and other High Courts or has considered the policy decision taken by the Govt. of India.

The contention of Respondents is also misleading as there is already provisions in Regulation 5.30(8) of the Electricity Supply Code Regulation 2018, in which it is clearly provided that connection to such encroachers or 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. Even a Aadhar Card, Islander Card issued by Andaman and Nicobar Administration or any similar document issued by the Govt. having the same address can be accepted as a proof of occupancy of the premises.

Therefore, in my considered opinion, being a welfare State, the benefits of directions by Hon'ble High Court of Calcutta, Circuit Bench at Port Blair vide Order dated -11.02.2011 in bunch of Writ Petitions as stated in para (d) above and namely Abhimanayu Muzamdar vs Superintending Engineer ,Electricity Department ,Andaman Nicobar Islands, should have been extended to all similarly situated persons in the Island as held by Hon'ble Supreme Court of India vide order dated-30.01.2020 in Civil Appeal No.-852 of 2020 titled Chairman/Managing Director, U.P. Power Corporation & others vs Ram Gopal. Hon'ble Punjab and Haryana High Court in CWP N0-10299, 10808, 11120 of 2022 titled Davinder and others vs Union Territory Chandigarh, vide their order dated-01.06.2022 has also observed that being human beings and citizens of India, such encroachers are



also entitled to the right of life in terms of Article 21 of the Constitution of India as stated in para (d) above.

Hence, the contentions of Respondents are legally unsustainable and are hereby rejected, in view of explicit provisions in the Electricity Supply Code Regulation 2018, dictum of Hon'ble High Court of Calcutta, Circuit Bench at Port Blair vide Order dated -11.02.2011 in bunch of Writ Petitions as stated in para (d) above and namely Abhimanayu Muzamdar vs Superintending Engineer, Electricity Department, Andaman Nicobar Islands and the policy decision taken by the Govt. of India to release electric connections to such encroacher. Moreover it has been made clear in Electricity Supply Code Regulation 2018 as well as by Hon'ble High Court of Calcutta, Circuit Bench at Port Blair, that the release of electricity connection will not confer any right or equity in favour of the trespasser in occupation to defeat the title of the lawful owner.


- (i) Similar orders were passed by this court in Appeal No-168 titled Smt. Waheeda Ali and Appeal No-169 titled Sh. Alokesh Kumar, both vs Superintending Engineer, Electricity Department -Andaman and Nicobar Islands and both orders have been implemented by the Respondents.

(F) DECISION

1. For the reasons discussed above, the appeal of the Appellant is allowed without any cost.
2. The Appellant may resubmit his application for electricity connection offline as well as online within 7 days.
3. The Respondents/Licensee is hereby directed to consider the application for release of connection and if found in order, release the electricity connection to the Appellant within 15 days. Further considering the safety considerations in releasing connection to the Appellant/such encroachers, a Single Phase, 2-Pole, Earth Leakage Circuit Breaker (ELCB) or a Circuit Breaker with better specifications should be installed on the outgoing side of the electricity supply by the Respondents at their cost.
4. Further, it is made clear that release of electricity connection to the Appellant will not confer any right or equity in favour of the trespasser/encroacher/occupant of Govt. Land, to defeat the title of the lawful owner and shall not be treated as having any rights or title over the encroached Govt. land.
5. 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.



6. 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.
7. Non-compliance of the orders of the Ombudsman by the Electricity Department/Licensee shall be deemed to be a violation of Regulations and shall be liable for appropriate action by the Commission under the provisions of the Electricity Act, 2003.
8. The appeal is disposed of accordingly.



12/9/2022

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

Dated: 12.09.2022

