

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.174 of 2022

Date of Hearing: 15.09.2022

Date of Order: 19.09.2022

Smt. Sabita Dey,
Andaman & Nicobar Islands
Port Blair

.... Appellant

Versus

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

....

Respondents

Parties present:

Appellant(s) No one for the Appellant.

Respondent(s) Smt. Rizwana,
Executive Engineer


19/9/2022

Date of Order: 19.09.2022

The Appellant has preferred an Appeal against Non-implementation by the Respondents of CGRF-A&NI's order dated-15/11/2021 in Complaint No-ANI/CGRF/230/21-22/18. The appeal/representation received in this office on 27.07.2022 by email and the same was admitted for examination and consideration on 03.08.2022. Copy of the same as received was forwarded to the Respondents with a direction to file the counter reply in the required format, to the appeal/representation within 20 days from the date of Admission Notice. The Respondents have filed the counter reply and a copy of the same was supplied to the Appellant, to file the Rejoinder.

Settlement by Mutual Agreement

The Appellant did not attend the e-hearing before the Electricity Ombudsman on 15.09.2022 through video conferencing. Smt. Rizwana-Executive Engineer for the Respondent informed that the Electricity Department has released the electricity connection.

(A) Submissions by the Appellant:

Appellant submitted the brief facts as under: -

It is informed to your good self that I am residing along with my family members by constructing a residential house on my prolonged encroachment situated at Nayasahar (Hill) Village, Guptapara Panchayat, Ferrargunj Tehsil, South Andaman District, A & N Islands continuously.

Sir, I applied for the installation of 01 No. new Domestic Electric meter at my aforesaid residential house after observing and fulfilling the necessary formalities and rectifications as per the instructions/directions as indicated in the following letters with the Assistant Engineer-IV, Electricity Department, Chouldhari, South Andaman furnished as under:-

1. Letter No. EL/AE/CD/2-4/2020/418, dated 18.05.2020
2. Letter No. EL/JE/SG/1-16/20-21/346, dated 19.06.2020
3. Joint Inspection Report No. BO/NS/MT/2020-21/06, dated 21.07.2020
4. Letter No. RO/MT/G/4(B)/254, dated 21/22.07.2020

Sir, I have deposited sum of Rs. **1950/- (Rupees One Thousand Nine Hundred Fifty Only)** on **14.10.2020** as **Estimate Money** with the respective office and Rs. **500/- (Rupees Five Hundred Only)** vide the Pledge Deposit Account No. **002934051101314** on **17.10.2020** with the A & N State Cooperative Bank Ltd. Garacharma-II Bank Branch as a **SECURITY DEPOSIT** as per the instructions/directions of the respective authority/official already but I am extremely sorry to say that I have not yet been installed with the Electric Meter even after lapsing of more than **11** months



unfortunately as a result of which, I am facing untold/immense difficulties along with my family members especially at the night hours in the absence of Energy Meter in my house continuously.

Since, no action was taken by the Electricity Department; I have no alternative option except approaching the CGRF, who vide order dated-15.11.2021 directed to the Electricity Department to provide electricity connection. She ran from pillar to post, but CGRF order was not-implemented by Electricity Department, hence Appeal to the Ombudsman.

Therefore, your kind intervention is hereby invited for consideration and recommending my case favorably for the installation of a new Domestic Electric Meter in my name aggrieved family survival in the future please.

She also filed application for condonation of delay on the ground that she is constantly following with the AE/EE/SE office but no help was given except false promises. She requested to condone the delay

She therefore prayed that: -

1. Providing Electricity Connection immediately as per order passed by CGRF, Forum
2. Penalty may be imposed to the Electricity Department for non-compliance of Forum's Order
3. Necessary compensation be provided due for the Mental torture by the Department

(B) Submissions by the Respondents:

Smt. Rizwana, working as Executive Engineer, South Andaman Division in the Electricity Department, A&N Administration, solemnly affirm and state on oath as under: -

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

2. Facts of the counter reply as under:-

- i. That, the appellant Smt. Sabita Dey, R/o Nayasahar, Port Blair, on 29.10.2019 had submitted an application in the office of Assistant Engineer, Chouldari, requesting to provide domestic electric connection in her dwelling house,



constructed in the encroached area. A copy of application submitted by Appellant is enclosed as **Annexure-I**.

- ii. That, being an encroached land, connection to the party concern could not be provided at that juncture, owing to the decision taken by the competent authority to cease connection to the encroachers.
 - iii. That, the application submitted by Smti. Sabita Dey, R/o Nayasahar was reviewed by the Superintending Engineer in the light of the orders passed by Ld. Electricity Ombudsman on 05.08.2022, in the similar matters, wherein CGRF orders for providing electric connections to the encroachers were upheld. Inter-alia direction was issued by Superintending Engineer to take necessary and appropriate action in accordance to the order passed by CGRF on 15.11.2021. A copy of correspondence received from Superintending Engineer, Electricity Department vide Note dtd. 11.08.2022 is enclosed as **Annexure- II**.
 - iv. That, in compliance to the direction contained in the Note dtd. 11.08.2022, issued by Superintending Engineer, the Assistant Engineer, Chouldari was directed vide this office Note dtd. 11.08.2022, to take necessary and appropriate action in accordance to the order passed by CGRF on 15.11.2021 in the matter of Smti. Sabita Dey, R/o Nayasahar for providing electric connection, after fulfillment of all codal formalities. A copy of the direction issued to Assistant Engineer, Chouldhari on 11.08.2022 is enclosed as **Annexure-III**.
 - v. That, in the light of the above submissions made herein it is humbly requested that the matter be disposed of accordingly.
3. Further, vide her letter dated-29.08.2022; she confirmed that electricity connection has been released on 24.08.2022.

(C) Ld. CGRF-A&Nlorder dated-15.11.2021 preferred for Appeal:

Order

Quote

On basis of the submissions, written statements and documents, the Observations so reached, the following order is passed:-



1. The AE-IV (C/D) on behalf of the Respondents / Licensee (ED) is directed to provide electricity supply as demanded by the complainant Smti. Sabita Dey within 15 days from the date of receipt of this order without fail.
2. The Respondent / Licensee (ED) is directed to submit its action taken report to this office within 15 days after the supply of electricity to the complainant from the date of receipt of the Order as per JERC provisions.
3. The complainant having approached this Forum for settlement of grievance shall not be harassed overtly or covertly by the respondent in any manner whatsoever.
4. In case of dissatisfaction, the complainant shall have the liberty to appeal against this Order before The Electricity Ombudsman, For the State of Goa and Union Territories , 3rd Floor, Plot No-55-56, Pathkind Lab Building, Service Lane, Udyog Vihar, Phase-IV, Sector-18 Gurugram (Haryana) 122015, telephone No. 0124-4684708.) e-mail address: ombudsman.jercuts@gov.in within two months from the date of receipt of this order in the prescribed format which can be collected from this office in any of the working days."

Unquote

(D) Deliberations during e-hearing on 15.09.2022 through video conferencing:-

1. Appellant's Submission:

- (a) No one from the Appellant side attended the e-hearing despite notice/telephonic calls.

2. Respondent's Submission:

- (a) Smt. Rizwana-Executive Engineer for the Respondents informed that electricity connection has been released on 24.08.2022.

(E) Findings & Analysis: -

1. I have perused the documents on record and pleadings of the parties.
2. The documents submitted by the parties have been believed to be true and if any party submitted a fake/forged document, and then they are liable to be prosecuted under relevant Indian Penal Code/Rules/Regulations.
3. The issues which have arisen for considerations in the present Appeal are as under: -
 - i. Whether the Appellant is entitled to relief for grant of Electricity Connection, as prayed for?
 - ii. Whether the Appellant is entitled for penalty/compensation as prayed for?
4. (a) Regarding issue no 3(i) as above, as to whether the Appellant is entitled to relief for grant of 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".

(ii) Section 57. (Consumer Protection: Standards of performance of licensee):

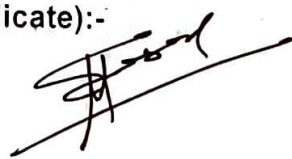
(1) The Appropriate Commission may, after consultation with the licensees and persons likely to be affected, specify standards of performance of a licensee or a class of licensees.

(2) If a licensee fails to meet the standards specified under sub-section (1), without prejudice to any penalty which may be imposed or prosecution be initiated, he shall be liable to pay such compensation to the person affected as may be determined by the Appropriate Commission:

Provided that before determination of compensation, the concerned licensee shall be given a reasonable opportunity of being heard.

(3) The compensation determined under sub-section (2) shall be paid by the concerned licensee within ninety days of such determination.

(iii) Section 143. (Power to adjudicate):-



(1) For the purpose of adjudging under this Act, the Appropriate Commission shall appoint any of its Members to be an adjudicating officer for holding an inquiry in such manner as may be prescribed by the Appropriate Government, after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry, and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of section 29 or section 33 or section 43, he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

Unquote

(c) In view of submissions made by the Appellant, the delay in filing the Appeal is hereby condoned.

(d) Smt. Rizwana-Executive Engineer for the Respondents informed during e-hearing that electricity connection has been released and also vide her letter dated-29.08.2022 confirmed that electricity connection has been released on 24.08.2022; therefore the representation before this court has become infructuous.

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

(a). As per Section- 43(3) of the Electricity Act-2003, a penalty which may extend to one thousand rupees for each day of default can be imposed, but for the implementation of this provision, one needs to take necessary action as per Section - 143 of the Electricity Act-2003. Similarly, as per Section -57 of the Electricity Act-2003, the power to levy compensation vests with the Appropriate Commission.

Therefore, the Appellant needs to approach the appropriate bodies for imposition of penalty/ grant of compensation as prayed for.


(E) DECISION

1. For the reasons discussed above, the appeal of the Appellant is dismissed being infructuous.
2. 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/Appellant in occupation to defeat the title of the lawful owner and shall not be treated as having rights or title over the premises.
3. In case, the Appellant or the Respondents are not satisfied with the above decision, they are at liberty to seek appropriate remedy against this order from



the appropriate bodies in accordance with Regulation 37(7) of the Joint Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2019.

4. The appeal is disposed of accordingly.



19/09/2022

(M.P. Singh Wasal)
Electricity Ombudsman
For Goa & UTs (except Delhi)
Dated: 19.09.2022