

Before the Electricity Ombudsman

(Appointed by the Joint Electricity Regulatory Commission
for the State of Goa and UTs, under Section 42 (6) of the Electricity Act, 2003)
Second Floor, HSIIDC Office Complex, Vanijya Nikunj, Udyog Vihar, Phase-V, Gurgaon (Haryana)
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Appeal No. 21/2013

Representation/ Appeal Before the Electricity Ombudsman for JERC for the State of Goa and UTs against the order dated 02.08.2013 of CGRF, Puducherry by Shri M. Mathivanan and Mr. M. Karthikeyan in the matter of deliberate refusal to give electricity service connection to the house constructed by them in T.S No. 147 and 111/2 at Pallatheru, Pillaitthottam, Puducherry.

Shri M. Mathivanan and Shri M. Karthikeyan,
No. 3, Second Cross ,
Mohan Nagar,
Puducherry-605005

Appellant

The Executive Engineer- I,
Electricity Department,
No. 137, NSC Bose Salai,
Puducherry- 605 001.

Respondent

The Assistant Engineer (Town- II)
Electricity Department,
Puducherry

Hearing on Monday, the 2nd December, 2013

Present: Mr. R. K. Kaul, Electricity Ombudsman for JERC for Goa and UTS.

On behalf of the Appellant:

1. Shri M. Mathivanan
No. 3, Second Cross ,
Mohan Nagar,
Puducherry-605005.
2. Shri M. Karthikeyan
No. 3, Second Cross ,
Mohan Nagar,
Puducherry-605005
3. Shri P. Saravanan
Manager to Consumer

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On behalf of the Respondent:

1. Shri V. Sridharan
Executive Engineer- I
ED- Puducherry
2. Shri N. Karunakaran
Assistant Engineer
ED-Puducherry
3. Shri J. Vivekanand
Assistant Engineer
ED-Puducherry
4. Shri S. Karthikeyan
Junior Engineer
ED-Puducherry

Date 09.12.2013

ORDER

1. The appeal/ representation cited above received in the Office of Electricity Ombudsman for the State of Goa and UTs was admitted on 10.09.2013. A copy of the same as received was forwarded to the Respondent on the same day with the direction to submit their remarks/ counterstatement on each of the points relating to the matter of this representation supported by copies of relevant documents, latest by 20th September, 2013, with a copy to the Appellant. The point wise reply of the Respondent has been received in the Office of Ombudsman on 20th September, 2013.

Brief Facts of the Case

2. The Appellants are owner of the property situated at Pallatheru, Pillaitthottam, Puducherry, bearing T.S No. 111/2, 139, 147, 154 and 155 corresponding to Re-survey No. 64/8 by virtue of registered sale deeds dated 02.12.1988, 20.11.1999 and 31.03.2000 and a registered Release Deed dated 30.11.1989 to the extent of 8362 Square feet.
3. In the property covered under T.S No. 147 and 111/2 a house was constructed on the eastern end and application for temporary electricity service connection was made on 26.12.2012 in the name of Shri M. Mathivanan and Shri M. Karthikeyan and the requisite fees was remitted by them on 27.12.2012. In spite of repeated request the Respondent did not release the service connection, thereby violating the norms laid down under provision of service connection.
4. On 27.12.2012 when the Appellant approached the licensee (JE concerned), he refused to give temporary connection on the ground that he has received objection from Mrs. Umamaheshwari "not to extend temporary supply since that property

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belongs to her". She had claimed ownership through an unregistered invalid document which was refuted by the Appellant.

5. The Licensee (AE/Town II) told the Appellant that it was his right to accept or not to accept such a document. After a long debate he told that he would inspect the site and decide the matter. In the meantime the Appellants submitted the application for permanent service connection on 27.12.2012 and got the receipt (TSA-456/27.12.2013).
6. During inspection in the first week of Jan 2013 the Appellant was informed that the service connection could be given only after getting legal opinion on receipt of registered documents from the objector. On receipt of legal opinion the licensee (JE/Saram) was requested to identify the schedule of property, based on legal opinion, for which the JE/ Saram reported his inability.
7. As per the Respondent, the complainant caused confusion by applying for temporary supply mentioning RS No. 64/8, Gangiamman Koil Street and by applying for permanent service connection by mentioning RS No. 64/5pt, Pallatheru, Angalamman Koil Street. As such the Sub-division was not able to identify the land in which the house was situated and could not be verified the legal ownership of land.
8. During the first week of Jan 2013, the licensee (AE/Town II) along with JE/Saram inspected the house and enquired from the tenant Mr. Natarajan, who was residing in the house at that time, about the ownership of the house, which he clarified.
9. In and around the third week of Jan 2013, the Appellants received a copy of the letter dated 10.01.2013 sent by the licensee (AE/ Town II) at their site address, to produce encumbrance certificate for Patta No. 3003, from his office.
10. On 08.02.2013, the Appellants submitted the encumbrance certificate along with Patta No. 4817 covering the entire area T.S No. 147, where the house, for which the power supply was sought, is located.
11. The Appellants received a letter from the licensee (AE/ Town II) dated 31.05.2013 stating that their application was being kept pending for want of some additional documents from Mrs. Umamaheshwari, the objector.
12. The law officer of Electricity Department opined that there were no merits on the objections of the objectors (Mrs. Umamaheshwari, Lalitha and Rathinam). The Electricity Department delayed in giving service connection stating that the property could not be identified whereas the site had been inspected twice on 27.12.2012 and during first week of Jan, 2013.
13. On 17.06.2013, the Appellant approached CGRF for relief thinking that they would never get the connection.
14. The CGRF, Puducherry vide its order dated 2nd August, 2013 gave directions as follows:



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- a) The respondent is directed to reject the objections received from the objectors and intimate the same to the objectors with reasons for rejection, within a week from the date of receipt of this order.
 - b) The Temporary supply, if required by the applicant/ complainant, may be extended within the time limit mentioned in the supply code subject to production of test report etc. as applicable.
 - c) The permanent supply to the premises applied by the complainant shall be extended within the time limit mentioned in the supply code applicable, subject to compliance of conditions and collection of charges, if any.
15. Aggrieved by this order passed by CGRF, Puducherry, the Appellant filed this Representation before the Electricity Ombudsman for JERC for the State of Goa and UTs on dated 06.09.2013
16. The permanent power supply connection was effected by the licensee on 16.09.2013 afternoon.

Prayer

- a) Suitable compensation to the Appellant for monetary loss and mental agony

Settlement by Agreement

17. Both the parties under this appeal/ representation, were informed on 18.11.2013 to appear before the Ombudsman for the hearing on 02.12.2013 at 11:00 AM Court Room in the Office of CGRF of Puducherry Electricity Department at No. 4, 3rd Cross Street, Sathya Nagar, New Saram, Puducherry- 605013. It was indicated to them to put forth and explain their position in person or by an authorised representative and produce documentary evidence relating to all the points on the matter of this representation. It was also informed through the notice that the Ombudsman's efforts, in the first instance, during the hearing would be to facilitate settlement through mediation and conciliation.
18. Both the parties appeared before the Ombudsman as scheduled and were heard. Efforts were made to reach at 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 pleadings on the matter.

Pleading by the parties and Responses to the Issues

The Appellant

19. The Appellant reiterated the points in detail in his representation received on dated 06.09.2013 in the office of Electricity Ombudsman for the State of Goa and UTs.


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20. It was pointed out by the Appellant that he submitted the temporary supply application on dated 26.12.2012 and deposited Rs. 3000/- for the temporary connection on dated 27.12.2012.
21. He was refused the temporary connection. It was stated that some objections were received from Mrs. Umamaheshwari not to extend temporary supply since that property belonged to her. As per the Appellant, the licensee accepted unregistered invalid documents from the objector.
22. In the meantime the Appellant submitted the application for permanent service connection on 27.12.2012.
23. During the first week of Jan 2013, the licensee (AE/ Town II) and JE/Saram inspected the house and made enquiry from tenant regarding ownership of house which was clarified by the tenant. Even then the supply connection was not granted stating that the Department had received objection from Mrs. Lalitha and Mr. Rathnam.
24. In and around third week of Jan 2013, the Appellant collected a copy of the letter dated 10.01.2013 from the office of the licensee intimating therein to produce encumbrance certificate for Patta No. 3003.
25. On 08.02.2013, the necessary encumbrance certificate was submitted by the Appellant.
26. The licensee kept on delaying the connection for one reason or the other and did not release the connection.

The Respondent

27. Responding to the above, the Respondent reiterated his replies submitted in written with reference to the point raised by the Appellant.
28. It was stated that on receipt of objections received from Mrs. Umamaheshwari, Mrs Lalitha Ammal and Mr. Rathinam, the electricity connection was kept pending till further instructions and the Appellant was informed accordingly. It was during first week of Jan 2013, that the Appellant was informed that further action will be taken after obtaining legal opinion in the matter.
29. The Appellant submitted the encumbrance certificate only on 12.02.2013 and not on 08.02.2013 as stated by him. The Patta No. 4817 was not submitted on that date as alleged by the Appellant.
30. The legal opinion was received by the licensee on 23.04.2013 wherein the Law Officer wanted the licensee to verify the occupancy and the boundaries of the Appellant.
31. JE/Saram reported on 03.05.2013 that it was difficult to identify the schedule of property (for which supply was required). After about a fortnight when the Appellant

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met the licensee it was informed to submit documents in support of the boundaries as required by the Law Officer. Since the exact extent with boundaries in which the building has been constructed was not produced by both the parties, the licensee was seeking help from the survey department.

32. Since the department has to verify the veracity of objection received and the objection, the department could not be held responsible for mental agony, if any, caused to the Appellant due to delay caused in disposing the objections.
33. Based on the orders issued by CGRF on 02.08.2013, the Respondent after intimating the reasons for objections to the objector affected the permanent supply connection on 16.09.2013.

Findings/ Factual Position

34. The Appellant requested for release of temporary electrical connection on dated 26.12.2012. He deposited the requisite fee on dated 27.12.2012. In spite of repeated request the Respondent did not release the service connection.

- a) **As per Regulation 3.6 (F)(35) of JERC (Electricity Supply Code) Regulations, 2010**

“The licensee shall release the supply within 3 days after payment of charges and compliance of other requirements by the consumer for loads up to 10 KW and within 15 days for load exceeding 10KW where extension of distribution mains is not required. Where extension of distribution mains is required, the supply shall be released within 60 days in case of LT consumers, 90 days for HT consumers and 180 days for EHT consumers.”

- b) **As per Regulation 3.5 (6) of JERC (Electricity Supply Code) Regulations, 2010**

“No application for the new connection in an electrified area shall be refused under any circumstances if it complies with statutory requirements and is in conformity with Act. In case consumer has not been intimated within stipulated period about any further requirements for release of connection in his application, the application shall be deemed to have been accepted and necessary action shall be taken to release the connection.”

35. The Appellant submitted the application for permanent service connection on 27.12.2012 and the connection was released to the Appellant only on 16.09.2013 afternoon that is after a gap of more than 8 months

- a) **As per Section 43 (1) of the Electricity Act, 2003**

“Every distribution licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month

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after receipt of the application requiring such supply.....”

b) As per Section 43 (3) of the Electricity Act, 2003


“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.”

ORDER

36. Based on the above, the representation/ appeal of the Appellant is disposed off with the following orders:

1. In this particular case, because of gross negligence on the part of the Respondent (the Licensee), the Appellant continued suffering for a long time to get the electrical connection in his favour. Because of the delayed release of electrical connection he suffered monetary loss in terms of rental loss to his property and continued suffering mental agony. The licensee is directed to pay a sum of Rs. 10,000 as compensation to the Appellant.
2. The licensee may recover the compensation amount of Rs. 10,000 from the concerned who deliberately delayed the process of release of electrical connection. A departmental enquiry may be got conducted to fix the responsibility of the concerned Officers/Officials.

Dated the 9th December, 2013


(R. K. Kaul)
Electricity Ombudsman for JERC
for the State of Goa and UTS

Ref. No. 1/30/2013-EO

Forwarded to:

1. Shri M. Mathivanan and Shri M. Karthikeyan
No. 3, Second Cross ,
Mohan Nagar,
Puducherry-605005

They shall furnish to the Electricity Department, Puducherry, within a period of one month from the date of issue of this order, a letter of acceptance that the award is in full and final settlement of their representation/ claim. If they do not intimate the acceptance, the order shall not be required to be implemented by the Respondent Department/ licensee.


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2. The Executive Engineer- I,
Electricity Department,
No. 137, NSC Bose Salai,
Puducherry- 605 001.

The Respondent shall comply with the award/ order within 15 days of the receipt of the intimation letter of acceptance from the Appellant and intimate the compliance to the Electricity Ombudsman for JERC. Non-compliance shall constitute violation of JERC regulations and may attract remedial action under Sections 142 and 146 read with Section 149 of Electricity Act, 2003.

3. The Assistant Engineer (Town- II)
Electricity Department,
Puducherry

Copy to:

1. The Secretary, Joint Electricity Regulatory Commission for the State of Goa and UTs.
2. The Secretary (Power), Govt. Of Puducherry, Secretariat, Puducherry- 605 001
3. The Chairman, CGRF, Electricity Department, No. 4, 3rd Cross Street, Sathya Nagar, New Saram, Puducherry- 605 013.

Copy also to:

1. Shri J. Vivekanand ,Assistant Engineer, ED-Puducherry
2. Shri S. Karthikeyan Junior Engineer, ED-Puducherry

