

**BEFORE THE CONSUMER GRIEVANCES REDRESSAL,
FORUM (CGRF), GOVERNMENT OF GOA,
ELECTRICITY DEPARTMENT, VIDYUT BHAVAN,
4TH FLOOR, VASCO, GOA.**

Complaint / Representation No. 12/2024/35.

Shri. Sanjan S. Naik,
Flat No.47, Sky lark Apartments Comba,
Margao – Goa.

..... Complainant

V/S

1. The Chief Electrical Engineer,
Electricity Department,
Government of Goa,
Vidyut Bhavan, Panaji – Goa.
2. The Executive Engineer,
Electricity Department,
Div –IV, Margao - Goa.
3. The Assistant Engineer,
Electricity Department,
Div –IV, S/D- I, Margao - Goa.
4. Smt. Kalpana Divkar,
Lily & Lilac florist, Opp. Loyola School,
Comba – Margao – Goa.

..... Respondents

Dated : - 23/05/2024

ORDER

1. This order shall dispose the complaint dated 15.04.2024 filed by the complainant. He is aggrieved by the failure of the licensee Department to reconnect the supply after the fire mishap in Shop no. 12 at 'Shivneri Apartments', Comba, Margao Goa.

Case of the Complainant

2. Succinctly, the complainant's case as culled out from his complaint is that he is the co-owner of Shop no. 12 in 'Shivneri Apartments', Comba, Margao Goa. The shop is registered in the name of his wife

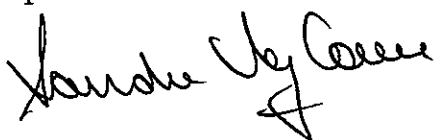
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Mrs Kalpana Divkar alias Kalpana Sanjan Naik. There is an ongoing matrimonial dispute between the couple. It is serviced by an electricity connection under CA no. 60004664433.

3. On 06.03.2024, the shop was gutted in a fire due to suspected short-circuit, following which the installation was disconnected. Copy of the police panchanama was produced. When the complainant approached the Department for reconnection on 15.03.2024, he was orally informed that there was a communication received from his wife not to re-connect the supply; hence the request was declined.
4. He is having custody of two minor children and the business conducted in the shop was the only source of income. Under the personal law in Goa, he had equal right to the properties under regime of communion of assets.
5. He prayed for a direction to the licensee Department to reconnect the supply.

Case of the Department.

6. Upon being noticed, the Department filed its say. In a nutshell, it is their case that the connection is in the name of Ms Kalpana Divkar. It was disconnected on 06.03.2024 due to the fire incident. The complainant applied for reconnection of supply on 15.03.2024. The said Kalpana Divkar submitted a communication dated 12.03.2024 to the Department calling upon them not to re-connect the service connection as she is undertaking reconstruction and restructuring her shop. This was followed by another communication dated 12.04.2024 enclosing copy of an agreement for sale of the shop dated 28.05.2005. In yet another letter dated 19.04.2024, the said Kalpana informed the Department that the trade licence issued with respect to the said shop had been cancelled by the Margao Municipal Council. Since there was an objection from the consumer/owner, the Department did not reconnect the supply.



Case of Ms Kalpana Divkar.

7. Since the installation was in the name of Ms Kalpana Divkar, this Forum found it prudent to hear her in the interest of natural justice before deciding the complaint. She was impleaded and arraigned as Respondent no. 4. The said respondent filed her reply on 26.04.2024.
8. Briefly stated, it is her case that she is the owner of the shop no. 12, having been purchased by her prior to her marriage with clear understanding of separation of assets. The complainant had filed a divorce petition against her that is pending adjudication before the Civil Court at Margao. She denied that the complainant is the co-owner of the shop. The claim of co-ownership cannot be adjudicated by this Forum. The complainant had come before this Forum with a false case and false documents. The Municipal Trade Licence produced along with the complaint had been revoked by the concerned authority, which fact was concealed. The business in the shop was conducted by her, however for some time it was being conducted by the complainant. He had installed high power consuming machines that were responsible for causing the fire. The complainant could not conduct any business in the shop in view of the revocation of the trade and sign-board license; hence he is disentitled from recommencing business activity in the said shop. Consequently, no electricity supply could be released. The connection was not in the name of the complainant; hence he could not have approached the Department for reconnection.

Hearing.

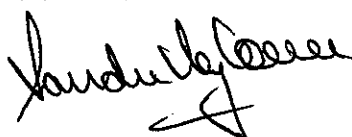
9. I heard the parties at length on videoconference. The complainant appeared in person, the Department was represented by Shri. Anup Rane AE and R4 Ms Kalpana Divkar was represented by Shri Prashant Naik.



10. After the hearing, the complainant sent an email dated 13.05.2024 attaching a receipt dated 02.05.2024 issued by the Margao Municipal Council towards trade licence fees of Licence no. T/O/5717 valid up to 31.03.2025. Since the mail was not copied to the other parties, this Forum brought it to their notice by email on 20.05.2024 and called upon them to submit their say within two days. The fourth respondent responded by attaching a letter dated 22.05.2024 from the Chief Officer, Margao Municipal Council addressed to the complainant purporting to cancel the trade licence no. T/O/5717.

Findings.

11. I perused the records and gave due consideration to the submissions of the parties.
12. The facts of the case are largely undisputed. With respect to the fourth respondent's case that the complainant concealed the revocation of the trade licence, it may be noted that the revocation letter was issued by the Administrative cum Accounts Officer, Margao Municipal Council on 18.04.2024, the communication was addressed to the respondent and the cancellation was done on her request. The complaint was filed on 15.04.2024, hence it can be presumed that the complainant was unaware of the cancellation when filing the complaint.
13. In view of the rival contentions, the only issue that crystallizes for my consideration is whether the complainant is entitled for reconnection of the supply to the Shop no. 12.
14. Insofar as the supply licensee – Department is concerned, in such cases, it must look into the factum of occupation or possession of the premises where the new connection or re-connection is sought. In the present case, the said shop was in possession of the complainant at the time of the fire incident and its disconnection. The fourth respondent admits this fact at paragraph 3 of her reply.



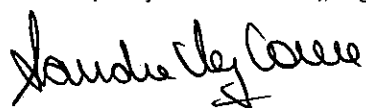
This fact is further vindicated in the fire accident police panchanama produced by the complainant.

15. Electricity is an integral part of right to life enshrined under Art 21 of the Constitution.¹ In *Dilip (Dead) v. Satish and others* (SLP No.8917 of 2019), the Hon'ble Apex Court held that:

“It is now well settled proposition of law that electricity is a basic amenity of which a person cannot be deprived. Electricity cannot be declined to a tenant on the ground of failure/refusal of the landlord to issue no objection certificate. All that the electricity supply authority is required to examine is whether the applicant for electricity connection is in occupation of the premises in question”.

16. Though the foregoing case pertained to a landlord's objection to reconnection of electricity supply to a tenant, the opinion of the Hon'ble Supreme Court can be squarely applied to the facts of this case. Therefore, in my considered opinion, as long as the complainant is in lawful possession of the shop, he cannot be deprived of electricity.
17. Section 2 (15) of the Electricity Act 2003 includes “*any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee*” under the definition of “consumer”. Hence, the complainant is a consumer qua the licensee Department.
18. Another noteworthy aspect is that the fourth respondent never had any objection to the complainant occupying the said shop prior to occurrence of the fire incident. The respondent objected for the first time only on 12.03.2024. In the communication, the respondent asked the Department to refrain from re-connecting the supply on the ground that she wanted “*to focus on the reconstruction and restructuring of my shop before any further steps can be taken*”.

¹Om Parkash v. Balkar Singh, CR-1153-2022, 19.12.2022 (Manjari Nehru Kaul J), High Court of Punjab and Haryana.



However, ironically, there was not a whisper of such a "focus" in the reply filed before this Forum. The focus was entirely on the legal ownership and legality of conducting business in the premises in absence of a trade licence. Secondly, in the communication dated 12.03.2024, the fourth respondent concealed from the Department the material fact of the complainant being in possession of the shop.

19. This leads me to conclude that the licensee Department was unwittingly used by the fourth respondent as a pawn to settle an inter-se dispute with the complainant. It is most inappropriate to allow any party to use the denial of electricity supply as a tool to put extraneous pressure on an opponent to resolve disputes.
20. Even on humanitarian grounds, the complainant would be entitled to relief. His claim that the income from the business being conducted in the said shop was the only source to maintain him and two children was not denied by the fourth respondent in her reply.
21. Lastly, I shall deal with the oscillating saga of the municipal trade & signboard licence. On 18.04.2024, the Administrative cum Accounts Officer, Margao Municipal Council communicated the cancellation of the trade & signboard licence to the fourth respondent. On 02.05.2024, the same Council accepted the licence fees from the complainant and renewed the licence up to 31.03.2025. The trade & signboard licence was again cancelled by the Council on 22.05.2024, this time by its Chief Officer!
22. Be that as it may, in my considered view, there is no nexus between a trade licence and release of a LTC service connection. A consumer may obtain a service connection for a premises and opt not to carry out any commercial activity therein. If at all commercial activity is conducted in violation of any other law, it would be for the competent authority to act.


Order.

23. In view of the foregoing discussions, I pass the following order:



- a. The complaint is allowed.
- b. The licensee Department is directed to reconnect the supply to the complainant's premises within seven days from receipt of this order, subject to satisfying itself with safety of the installation.
- c. The Department shall report compliance of the order to the registry of this Forum within 30 days.
- d. Proceedings closed.

24. 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.


SANDRA VAZ E CORREIA
(Member)