

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

Complaint / Representation No. 13/2024

Shri. Pradeep Mishra,
Shop Name Teli Super Market,
H.No. 2/230, Opp. Shantadurga Temple,
Calangute Circle,
Porbavaddo, Calangute – 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 –VI, Mapusa A– Goa.
3. The Assistant Engineer,
Electricity Department,
Div –VI, S/D- IV,
Candolim - Goa.

..... Respondents

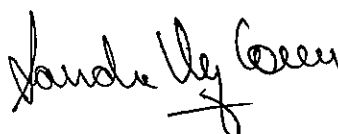
Dated : - 27/05/2024

ORDER

1. This order shall dispose the complaint dated 17.04.2024 filed by the complainant. The complainant claims to be in physical possession of an establishment known as 'Teli Mini Super Market' at Candolim Goa. He is aggrieved by the alleged arbitrary disconnection of electricity supply to the said establishment.

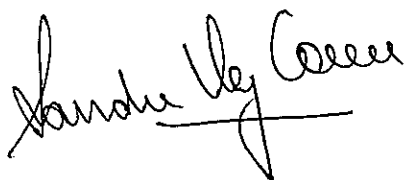
Case of the Complainant.

2. In a nutshell, the complainant's case as culled out from his complaint is that he is in physical possession as a licensee and



conducting business in house no. 2/230 at Calangute Circle, Calangute Goa by name 'Teli Mini Super Market'. The premises has an electricity connection bearing CA no. 60006243913 standing in the name of the owner Mr Santosh Teli. He is a licensee of the premises by virtue of a leave and license agreement dated 09.08.2022, which was in continuation of a similar agreement entered in the year 2021 that was renewed. The complainant sent a legal notice to the licensor dated 19.06.2023 for recovery of Rs. 10,78,132/- that was allegedly due or to renew the leave and license agreement, etc.

3. In a letter dated 27.02.2024, the complainant was asked by the Department to produce tenable documents to prove his occupancy of the premises. This letter was replied by the complainant on 28.02.2024 inter alia questioning the Department's jurisdiction to seek such documents.
4. On 06.03.2024, the Department abruptly disconnected the connection after serving a notice bearing no. Tech-86/A.E./S.D.IV/23-24/CAL/2028 dated 06.03.2024. All bills of the installation had been paid up to date.
5. The complainant issued a legal notice to the Department dated 07.03.2024 regarding the alleged illegal disconnection and calling upon it to reconnect the supply within five days. The complainant also sought information about the disconnection under RTI Act. The reply allegedly revealed the 'illegality in the disconnection.
6. The dispute with the owner (licensor) was a civil dispute and the question of possession cannot be decided by the Department.
7. He prayed for ex-parte ad-interim relief by way of immediate reconnection of the supply, and for directions not to disconnect the supply henceforth.



Interim Order

8. I heard the parties on the question of interim relief on 24.04.2024 and directed the reconnection of supply by 17 hrs on 25.04.2024 as an interim relief pending disposal of the complaint.

Case of the Department.

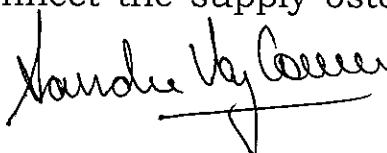
9. The Department contested the complaint and filed its say through the third respondent. In a nutshell, it is their case that the complainant was issued three letters dated 03.02.2024, 27.02.2024 and finally on 06.03.2024, on which day the supply was disconnected.
10. The disconnection was effected based on a letter from the "legitimate" consumer Shri Santosh Teli requesting disconnection and threatening that he would not pay the bills from the date of his application. Being unassured of the bill payment, the Department was "forced" to disconnect. The complainant did not take the onus of paying the bills.
11. Reconnection was done on 24.04.2024 at 13.30 hrs following the interim orders of this Forum.

Hearing.

12. I heard the parties at length on videoconference at which time Shri. Cyrus Gonsalves represented the consumer while Shri. Shoharat Shaikh AE appeared for the Department.

Findings.

13. I perused the records and gave due consideration to the submissions of the parties.
14. The factual matrix of the case can be summarised as follows:
- a) The consumer (licensor of the premises) Santosh Teli asked the Department to disconnect the supply ostensibly on account of



some dispute with the complainant (licensor). He threatened not to pay the future bills.

- b) The Department then issued a letter dated 03.02.2024, however a copy thereof was not produced before this Forum. The complainant has denied receipt of this letter.
- c) This was followed by another letter dated 27.02.2024, wherein reference was made to the earlier letter dated 03.02.2024 and that the 15-day time to prove his occupancy of the premises had expired. Since the premises was a supermarket and had perishable items, he was given 48 hours to submit the documents failing which the connection would be placed under temporary disconnection without further notice.
- d) The complainant responded by a letter dated 28.02.2024 questioning the Department's jurisdiction to ask for occupancy documents and powers to disconnect the supply. He admitted that he was not the owner of the premises and that as long as the bills were being paid, the supply could not be disconnected. That the owner was trying different methods to evict him from the premises and alleged a criminal conspiracy between the owner and the Department.
- e) The Department then issued a letter dated 06.03.2024 and disconnected the supply on the same day. None of the parties have produced this letter before the Forum though both admit having issued/received it.
- f) The complainant sought information under RTI Act about the disconnection and was furnished details that he claims confirmed illegality in the disconnection.

15. This is a classic case where the Department is being used (or allowing itself to be used) as a pawn in a private dispute between the licensor/owner and the licensee/tenant. Déprivation of electricity

Handwritten signature

seems to be a convenient way for some to intimidate occupants to vacate the premises. In fact, I am finding several such cases coming before this Forum of late, which leads me to believe that this could be part of a conspiracy between the landlords and the Department officials to dispossess tenants, and colorable exercise of power by the latter.

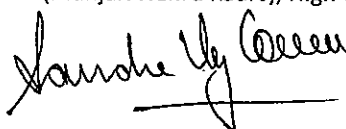
16. The Department admits that the disconnection stemmed from the letters received from the owner/consumer. In their letter dated 27.02.2024, it asked the complainant to submit "legally tenable documents" to prove his occupancy. In my opinion, whether the complainant's occupation of the office premises is lawful or not was within the realm of the competent court or authority to decide; the Department had neither the jurisdiction nor power nor legal wherewithal to decide on the legality or otherwise of occupation of a person of a premises.

17. It cannot be over-emphasized that electricity - being a basic necessity - is an integral part of right to life enshrined under Article 21 of the Constitution of India. In addition to being an essential service. Thus, no one can be deprived of electricity, as long as he is in possession of the premises and the charges are paid.¹

18. While on the subject, I also note the judgment of the Hon'ble Supreme Court in *Dilip (Dead) through LR's vs. Satish and others* (2022 INSC 570), where it held as follows:

"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."

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



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's possession has not been held to be unlawful or trespass by a competent court/authority, he cannot be deprived of electricity. The Electricity Act 2003 contemplates a synergy between the occupier and the premises to which the connection is released.

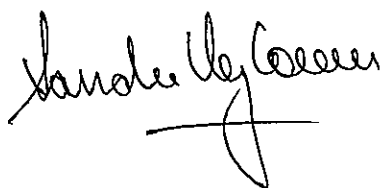
19. Hence, in light of the Hon'ble Apex Court's opinion above, in the event the complainant applies to the Department for a new connection, the same shall have to be considered by the Department after ascertaining the factum of his occupation of the premises. NOC of the owner shall not be insisted upon. The disconnection of the old installation (of Santosh Teli) can be effected thereafter. In that way, the Department's interest insofar as payment of bills are concerned will also be protected.

20. *I may reiterate the well settled law that grant of electricity connection in such circumstances does not confer any special equities in favour of the applicant and would not be construed as conferring or recognizing his title or lawful possession to the said premises or regarding identity of the premises.*

Order.

21. In light of the foregoing, I pass the following order:

- a. The complaint is allowed.
- b. The Department shall not disconnect the supply to the installation in question on the grounds of the lawfulness or otherwise of his occupation of the premises.

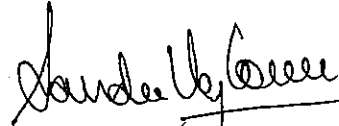


c. In the event the complainant applies for a new electricity connection for the premises in his name, the same shall be considered expeditiously by the Department upon verifying his physical possession of the premises. NOC of the owner shall not be insisted upon.

d. Disconnection of the existing connection on basis of the consumer's (Santosh Teli) request shall be effected only after release of the connection in name of the complainant, if any, as above.

d. The complaint stands disposed accordingly. Proceedings closed.

22. 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)