

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

Complaint / Representation No. 39/2024/172

Shri. Sham Madan Kambli,
R/o Shemecheadvan Warkhand,
Pernem - 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 - XVII, Mapusa - Goa.

3. The Assistant Engineer,
Electricity Department,
Div - XVII, S/D- I,
Pernem - Goa.

..... Respondents

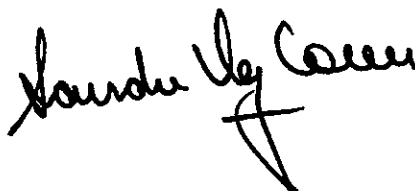
4. Shri. Devendra Deshprabhu,
R/o. 4/68, Rauraje Palace,
Nanerwada, Pernem, Goa.

..... Intervenor

Dated : - 04/10/2024

ORDER

1. This order shall dispose the complaint/representation dated 26.08.2024 filed by the complainant. This is the complainant's second innings of sorts before this Forum, the first being the complaint/representation no. 36/2023 which came to be dismissed.



Case of the Complainant.

2. On 26.07.2024, the complainant applied for a LTC connection with 5.42 KW load. The licensee Department, by a letter dated 19.08.2024, requested him to submit documents as per Cl 5.30 of the Supply Code Regulations 2018. He claims to have furnished an indemnity bond and claims to be the occupier of the premises but is unable to the other required documents.
3. His claim for electricity connection is based on electricity being a basic need and a fundamental right under Art 21 of the Constitution. A catena of decisions and case law on the point are cited. As he is the occupier of premises bearing name of "Yash Hotel" located near Mopa Airport gate, he claims that electricity connection should be released to him and seeks a direction to the licensee in this regard.

Case of the Distribution Licensee - Department.

4. The complaint is contested by the licensee Department. In their reply (titled as "written arguments") filed through the third respondent, it is their case that, vide a letter dated 19.08.2024, the complainant was requested to submit documents as per Clause 5.30 of the Supply Code Regulations 2018 without which the application for new connection cannot be processed.

Case of the Intervenor.

5. One Shri Devendra Deshprabhu filed an application for intervention. He claims to be co-owner of the land/property under Sry no. 114/3 of village Warkhand on which the complainant has allegedly unauthorisedly constructed a structure to which he is now seeking an electrical connection. The structure has been declared to be illegal and there is a demolition order issued by the Village Panchayat of Warkhand. Electricity connection cannot be released without NOC of the "rightful landowner".

Sanjay V. Gaur

Hearing.

6. I heard the parties at length. Smt Muktai Gawas represented the complainant, Shri Vattu Sawant AE appeared for the Department, and the prospective intervenor appeared in person.

Findings.

7. I perused the records and gave due consideration to the submissions of the parties. The rival submissions now fall for my consideration.
8. In the earlier round of litigation between the same parties, this Forum had dismissed the complainant's complaint (complaint/representation no. 36/2023) primarily on the ground of fraud committed by the complainant in claiming that the structure to which the connection was released bore house number 236/A allotted by the local panchayat, when it transpired that house no. 236/A was located about a kilometre away from the site. The complainant escalated the matter to the Hon'ble Ombudsman who upheld this Forum's order and dismissed the appeal (Appeal 209/2023). In the order, the Hon'ble Ombudsman noted *inter alia* that the appellant could apply afresh for a connection, however "*it has to be ensured that the premise where the connection is required is under rightful possession of the applicant*".
9. In the present case, the complainant has applied for a low-tension commercial connection for the very same structure allegedly illegally erected on the intervenor's property. He wants this connection for commercial activity in the said structure, namely, a restaurant establishment known as "Yash Hotel". He claims right to electricity as a fundamental right to life under Art 21 of the Constitution.
10. More than facts, the complainant has based his case entirely on the case law on electricity being a fundamental right. In fact, the complaint does not even whisper about the background of the case including past and pending litigation, location of the premises,

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property ownership details, and the capacity in which the application for new connection is made. Nonetheless, the law on the point is very clear, and none of the judgments relied by the complainant apply to the facts of this case.

11. In **Dilip (dead) through LR's v. Satish & others** (2022 SCC Online SC 810), the petitioner's later father was admittedly a tenant of the premises that never had an electricity connection since inception. The Hon'ble Apex Court held that "*Electricity cannot be declined to a tenant on the ground of failure/refusal of the landlord to issue no objection certificate*".
12. The facts of **Santosh Jaiswal v. CESC Limited** (2008) 3 WBLR 413 are distinguishable from the facts of this case. The petitioner claimed to be an occupier of the premises in question and substantiated his occupation by annexing documentary evidence. Importantly, no eviction proceedings had been initiated against the petitioner in that case. Hence the judgment of the learned single judge of Hon'ble Calcutta High Court does not assist the complainant either.
13. The facts of **Pradeep Kumar v. BSES Yamuna Power Ltd** (2022/DHC/5054) are difference from those of this case. In the cited case, the existing connection was disconnected at the instance of the private respondent, leading the Hon'ble Delhi High Court to direct its restoration.
14. Lastly, and ironically, the complainant has shot himself in the foot by relying on decision of Hon'ble Punjab & Haryana High Court in **Mobin Ansari v. Punjab State Power Corporation Ltd** (2023 (1) PLR 32). In the cited case, the petitioner was admitted into the suit premises under part performance of an agreement. At paragraph 28, the Hon'ble Court stated thus:

"The word "occupier" even otherwise is assumed in law to be an occupation which otherwise has some legal foundation. Law or

Sandeep Verma

Courts of law do not promote degeneration of rule of law and would not be seen promoting capitalization in favour of a wrong doer. The term "Occupier" used in the Electricity Act, 2003, does not intend to create a right in favour of a rank trespasser. The legislature would not intend to promote breach of law. Besides, every term used in a statute inherently implies it to be lawful. Hence, the interpretation of "occupier" would necessarily mean a possession where a person has been lawfully inducted in a premises." (Underlining is mine).

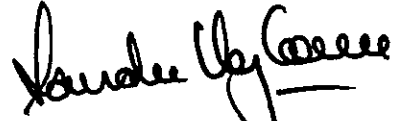
15. The documents produced by the prospective intervenor indicate *prima facie* that the structure has been illegally and unauthorisedly constructed on the prospective intervenor's property. Orders for its demolition have been issued by the competent authority i.e. the local panchayat.
16. Be that as it may, I noted that the complainant has approached the issue in a very cavalier and nonchalant fashion. Almost bordering on suppression of material facts. The application form placed on record by him shows blanks against description of premises and name and present address of the owner if the premises belongs to another person. Even the applicant's name and address shows "*Sham Madan Kambli, Pernem Goa*". Pernem is the taluka (tehsil) that has one town and 23 villages. At the very least, the distribution licensee is entitled to know basic particulars of the applicant and the location of the premises to which the connection is being applied for. In this backdrop, in my opinion, the licensee was well within its rights to seek further information from the applicant/complainant as well as comply with the Supply Code Regulations.

Order.

17. In light of the foregoing discussions, I did not find any merit in the complaint. The complaint stands dismissed. Proceedings closed.
18. The Complainant, if aggrieved, by non-redressal of his/her grievance by the Forum or non-implementation of CGRF order by the Licensee,

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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 B. CORREIA
(Member)