

(14)

ELECTRICITY CGRF
(Under The Electricity Act, 2003)
ANDAMAN & NICOBAR ISLANDS
PORT BLAIR

Before :

Shri. R. Ravichandar, Chairman,
Shri. Narayan Chandra Baroi, Member (Licensee)
Smt. Biji Thomas, Independent Member (JERC Nominated)

In the matter of :

Shri. Prabhat Chandra Adhikari, S/o Shri. Haralal Adhikari, R/o Wandoor Village, South Andaman.

.....Complainant

Versus

The Electricity Department, A & N Administration, Port Blair.

.....Respondent

Complaint No. : ANI/CGRF/284/23-24/16 dated 27/07/2023
Complaint : Providing New Connection (Domestic)
Date of Hearing : 08/08/2023
Date of Order : 20/10/2023



ORDER

Background

The complainant Shri. Prabhat Chandra Adhikari, S/o Shri. Haralal Adhikari, R/o Wandoor Village, South Andaman filed a complaint vide R.D. No. 118 dated 27/07/2023 requesting for new electric connection (Domestic).

The complaint was forwarded on 28/07/2023 to the AE (Workshop), Nodal Officer (CGRF), Executive Engineer(SAD), AE (Chouldhari), Electricity Department who represents the Respondent/ Licensee(ED) for submitting reply/comments and for attending the Hearing fixed on 08/08/2023 at 11:30 a.m. in the Hearing Hall of the Electricity CGRF, A&N Islands, Horticulture Road, Haddo, Port Blair with relevant documents to depose before the Forum. A copy of this letter was also endorsed to the complainant for attending the Hearing on 08/08/2023 at 11.30 a.m.

The Respondent on behalf of Licensee (ED) i.e. Executive Engineer(SAD), Electricity Department filed his reply vide letter No. EL/AE/CD/3-21/2023/899 dated 04/08/2023, which was received by the Forum vide R.D. No. 135 dated 04/08/2023, and kept in case file **(Exbt.-1)**.

Hearing on 08/08/2023

The Hearing was held on 08/08/2023 in the Hearing Hall, Electricity CGRF at 11:30 a.m. The following were present: -

- (i) Shri. Prabhat Chandra Adhikari, Complainant **(Absent)**.
- (ii) Shri. J. Jayakumar, AE (Chouldhari), Elect. Dept.
- (iii) Shri. P.N. Choudhary, JE, Elect. Dept.

Statement of the Complainant

Complainant Shri. Prabhat Chandra Adhikari, S/o Shri. Haralal Adhikari stated in his complaint letter dated 24/07/2023 as follow: -

1. *That the petitioner is a citizen of India and permanent resident at Wandoor No. 4, Port Blair, South Andaman District in A & N Islands.*
2. *That the petitioner had encroached a piece of forest land bearing survey No. 100/p measuring an area of about 200 sq.mtrs. situated at Wandoor No. 4 village under Ferrargunj Tehsil and started to reside therewith along with her family members by constructing dwelling house on the said piece of land".*

It is therefore most humbly requested for your kind consideration to provide the domestic electric connection for the relief in the human mankind as soon as possible.

The complainant enclosed online application form vide No. 9556 dated 17/12/2022 alongwith Aadhaar Card as Identity and address proof, which is kept in the case file **(Exbt.-2)**.

Reply of the Respondent/Licensee (ED)

The Assistant Engineer (Chouldhari) on behalf of the Respondent/Licensee(ED) in his written submission letter dated 04/08/2023 has stated that: -

- 1 *The complainant is an encroacher of Forest Land (Protected Forest Block 1 & 2) as per report of Range Officer Manglutan Vide letter No RO/MT/G-4(B)/1579 dt 13/02/2023 (Copy enclosed).*
2. *The Supreme Court of India in its order No IA No 502 in WP (C) No 202 of 1995 dated 07/05/2022, mentioned that no electric connection should be provided to the applicants who have constructed their house units on the encroached land declared as Forest or deemed forest. (Copy enclosed)*
3. *As per the Judgement of the Hon'ble High Court Calcutta, The applicant claims to be an encroacher upon Government revenue land (Copy enclosed).*

4. Since there is change in status of land encroached from Court Order (Government revenue land) and the actual physical settle possession of land (Forest Land), the department has put up proposal to file CAN application vide letter EE/SA/Tech/5-9/2022-23/1436 dt 10/07/2023 for appraisal to the Hon'ble Court as advised by the learned advocate of the department (Copy enclosed).
5. The inspection of the applicant premises was carried out by the JE (Manglutan) and it was found that no internal wiring has been carried out by the applicant.
6. This Sub-division is strictly following Circular of EE(SA) vide letter No EE/SA/Tech/1-19(A)/2265 dt 10/09/2014 in this regard. (Copy enclosed) This is for your kind information and necessary action please".

The Respondent/Licensee(ED) has submitted photocopies of letters as stated above, which is kept in the case file **(Exbt.-3)**.

Submission of the Complainant

The complainant Shri. Prabhat Chandra Adhikari, S/o Shri. Haralal Adhikari is absent during the Hearing. Hence, the Forum went through the documents submitted by the complainant meticulously in the interest of justice.

Submission of the Respondent (Licensee)

The Assistant Engineer (Workshop), Nodal Officer (CGRF) is absent during the Hearing date. The Assistant Engineer (Chouldhari), Elect. Dept. is present on behalf of Respondent/Licensee (ED) and has stated that the complainant Shri. Prabhat Chandra Adhikari had earlier filed a case in the High Court at Calcutta and accordingly a judgment was passed on 21/11/2022, which is kept in the case file **(Exbt.-4)**, wherein it states that the Government Revenue land was encroached by the complainant consumer while the complainant consumer had encroached on forest land, which was verified through joint inspection vide R.D. No. 2831 dated 12.01.2023 by (1) Electricity Department, Manglutan Site Office, (2) Pradhan, Gram Panchayat, Wandoor and (3) BEAT Officer, Wandoor Beat submitted before the Forum vide letter dated 04/08/2023, which is kept in the case file **(Exbt.-5)**.

Further, the AE-IV states the encroached land possessed by the complainant consumer has been mal-intentionally described as Government Revenue Land instead of Forest Land for which a CAN application may be filed by the Respondent/Licensee (ED) as suggested by EE(SAD) vide letter No. EE/SA/Tech/5-9/2022-23/1436 dated 10/07/2023, which is kept in the case file **(Exbt.-6)**, for review to the Hon'ble Court as advised by the learned counsel of the department.



Forum's Observation

The Forum observed the reply submitted by the Respondent/Licensee (ED) wherein states that "Sl. No. 5. The inspection of the applicant premises was carried out by the JE (Manglutan) and it was found that no internal wiring has been carried out by the applicant". As per **JERC Regulation No. 23/2018 (Electricity Supply Code) under Chapter 6 at Sl. No. 5.42 (3) explained about incomplete wiring**, which has not followed by the Respondent/Licensee (ED) in this instant case, read as: -

"(3) Verify all other particulars mentioned in the application form, as required;

If on inspection, the Licensee finds any defect (e.g. consumer's installation not completed, bare ends of conductor/joints not properly covered with insulating tape, wiring of such nature that it is dangerous to life / property, etc.) the Licensee shall intimate the defects to the applicant on the spot under proper receipt in the format given at Annexure -IX".

The Forum observed that the complainant Shri. Prabhat Chandra Adhikari, S/o Shri. Haralal Adhikari states in his representation letter dated 24/07/2023 requesting to provide new electricity connection before CGRF, A&N Islands whereas the consumer had concealed the Hon'ble High Court judgment/order dated 21/11/2022, which has been passed in favour of the complainant consumer in his appeal No. WPA/622/2022.

Hence, the Forum going through Hon'ble High Court judgment/order dated 21/11/2022, which was submitted by the Respondent/Licensee (ED) on 04/08/2023 before the Forum read as **"the petitioner had encroached upon a government revenue land and claims to be in settled possession thereof. The petitioner had applied for an electricity connection but the same has not yet been granted. This has prompted the petitioner to approach this Court by filing the instant writ petition.**

The respondents have not been able to produce any document to dispute that the petitioner is not in settled possession at this state.

In view of the ratio laid down in the judgment reported in 2011 (2) CHN (Cal) 768 (Abhimanyu Majumdar vs. The Superintending Engineer and others), the concerned respondent authority is directed to grant electricity connection to the petitioner within a fortnight from the date of communication of this order if the writ petitioner is found to be in settled possession of the land in question and shall be entitled to the enjoyment of electricity so long as the writ petitioner is not dispossessed by due process subject to payment of all requisite charges and fulfillment of other criteria to get such electric connection.



It is made clear that the grant of electricity connection on the petitioner's encroached land will not create any equity in favour of the petitioner or be used document to establish by the petitioner as a possessory right over the subject plot to resist the rightful owner.

The parties shall act on the basis of a server copy of this order downloaded from the official website without insisting upon production of a certified copy thereof.

Since I have not called for any affidavits, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

The writ petition is accordingly disposed of".

The Forum noted that on 03/01/2023 a joint inspection was conducted by (1) Electricity Department, Manglutan, (2) Pradhan, Gram Panchayat, Wandoor and (3) BEAT Officer, Wandoor Beat and found Forest Land instead of Government Revenue Land, which was encroached by the complainant Shri. Prabhat Chandra Adhikari but no proper action has been taken by the Respondent/Licensee (ED) against the High Court Order dated 21/11/2022 till date.

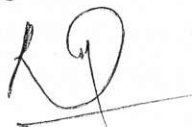
The Forum observed that after a lapse of more than 6 months of the joint inspection, the EE(SAD) sent a proposal to the Superintending Engineer(ED)/Licensee (ED) on 10/07/2023 and stated that **"WP (Writ Petition) cases pending under the jurisdiction for providing electric connection on encroached land, which requires filing CAN application"**. The Forum noted that 14 days before the filing of the complaint in the Electricity CGRF, A&N Islands, the EE(SAD) had sent a proposal to the Superintending Engineer (ED)/Licensee (ED) for filing CAN application, which indicates the seriousness of the implementation of High Court Order dated 21/11/2022 by the Respondent/Licensee(ED).

While, due to limitation of the Forum **as per JERC Regulation No. 26/2019 under Chapter-IV** read as :-

"Sl No. 19. Limitations/pre-conditions for submission of grievance-

The Forum may reject the grievance at any stage under any or more of the following circumstances: -

(a) in cases where proceedings in respect of the same matter and between the same Complainant and the licensee are pending before any court, tribunal, arbitrator or any other authority, or a decree or award or a **final order has already been passed by any such court, tribunal, arbitrator or authority;**".



Hence, the Forum has come to the conclusion that the Respondent/Licensee (ED) has not filed any counter reply against the Order dated 21/11/2022 of the Hon'ble High Court even after lapse of more than 11 months, which shows the negligence on the part of the Respondent/Licensee (ED) as well as non-implementation of the Order of the High Court, which is also a contempt of the Order of the Court. Further, on ground of limitation, as per JERC Regulation No. 26/2019 under Chapter-IV at Sl. No. 19, the Forum rejects the complainant's grievance.

Hence,

It is Ordered:

After detailed deliberations, submissions and documents produced before the Forum, and on the basis of the observation so reached, the following Order is passed:-

1. The Case No. 284 is hereby closed, due to jurisdiction limitation of the Forum as per JERC Regulation No. 26/2019 under Chapter-IV at Sl No. 19.
2. The Respondent/Licensee (ED) is suggested to take appropriate steps for counter-file or implement the High Court Order dated 21/11/2022, which was already delayed for more than 11 months, which is a contempt of Court Order.
3. The complainant may have liberty to approach the Hon'ble High Court for execution or contempt of High Court Order dated 21/11/2022, which was delayed for more than 11 months.
4. The Respondent/Licensee (ED) is directed to follow the **JERC Regulation No. 23/2018 (Electricity Supply Code) under Chapter 6 at Sl. No. 5.42 (3), explained regarding incomplete wiring, which was not done in this instant case.**
5. As per JERC Regulation No. 26/2019 under Chapter-IV of 27, non-compliance of the Forum Order shall be treated as violation of the Regulations of the Commission and accordingly liable for action under Section 142 of the Electricity Act 2003.
6. The Respondent/Licensee (ED) is directed to keep the Forum on the step taken within 15 days from the date of receipt of the Order as per JERC provision.
7. The complainant shall not be harassed overtly or covertly in any manner whatsoever in future for exercising his right, by availing the redressal within his jurisdiction.

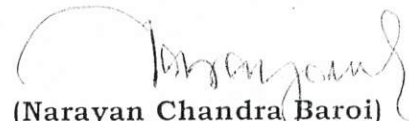


"The complainant, if aggrieved, by non-redressal of his / her grievance by the Forum or non-implementation of CGRF order by the Licensee, may make an Appeal prescribed Annexure-IV, to the **Electricity Ombudsman, Joint Electricity Regulatory Commission for the State of Goa and UTs**, 3rd Floor, Plot No. 55-56, Service Road, Udyog Vihar, Phase-IV, Sector-18, Gurugram - 122015 (Haryana). Phone - 0124-4684708, E-mail : ombudsman.jercuts@gov.in **within one month from the date of receipt of this order**".

[Annexure – IV Appeal Form can be collected from this Forum in any of the working days].

A certified copy of this Order be sent to the Superintending Engineer (Licensee/Respondent), Executive Engineer (SAD), Nodal Officer (CGRF), Assistant Engineer-IV, Assistant Engineer(IT), Electricity Department, Complainant and the Electricity Ombudsman, JERC for the State of Goa & UTs, Gurugram, (Haryana).


(Biji Thomas)
Independent Member
Electricity CGRF


(Narayan Chandra Baroi)
Member (Licensee)
Electricity CGRF


(R. Ravichandar)
Chairman
Electricity CGRF

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