

BEFORE THE CONSUMER GRIEVANCES REDRESSAL FORUM
(Under the Electricity Act, 2003)
PUDUCHERRY

PRESENT:

THIRU T. GOPALAKRISHNAN, B.E.,
CHAIRMAN

THIRU A.S. JITENDRA RAO, B. Tech., M.B.A.,
LICENSEE MEMBER

THIRU R. KRISHNAMURTHY, B.Com., LLB., PGDFL.,
JERC NOMINATED MEMBER

TUESDAY, THE 3RD DAY OF OCTOBER 2023

CONSUMER CASE No. 121/2023

A. Nalina Jasulin,
W/o Rajasekaran,
Ragul Gandhi Street,
Selliamman Nagar,
Periya Kalapet,
Puducherry.

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Complainant

Vs.

- 1) The Executive Engineer-Rural(North),
Electricity Department,
Puducherry.
- 2) The Assistant Engineer –Kalapet,
Electricity Department,
Puducherry.
- 3) The Junior Engineer-Kalapet,
Electricity Department,
Puducherry.

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Respondents

This case in C.C. No.121/2023 came up before this Forum for final hearing on 29/08/2023. After hearing both sides and having stood over till this date for consideration this Forum has delivered the following:

The case of the complainant is as follows.

A Complaint was received from A. Nalina Jasulin W/o Rajasekaran, on 08/08/2023. In the complaint, the Complainant had stated that she had applied for a Service connection in the month of October 2022. Earlier, the Assistant Engineer Thiru P.S. Pandian, had inspected the house and informed that service connection will be extended after making necessary payment. Due to some unavoidable circumstances she was not in a position to pay the amount immediately. For the past six months, she had met the Assistant Engineer Panneerselvam several times for getting the service connection, but no action was taken. Her children are studying for examination without power connection which had caused mental agony Therefore, the Complainant prayed this Forum to issue necessary directions to the Respondents to extend new service connection to her house. Hence the complaint.

2. The complaint has been registered as C.C. No.121/2023 on 09/08/2023 and copy of the complaint was sent to the Executive Engineer –Rural (North) and others for giving reply by 22/08/2023. Reply from the Respondent were received on 24/08/2023. A copy of the same was communicated to the Complainant. The case was posted for hearing on 29/08/2023.

3. In the Affidavit dated 21/08/2023, the Assistant Engineer, Kalapet/ Respondent No.2 for himself and on behalf of Respondent No.1 and 3 has stated that on verifying the application register, it is found that a new service connection application has been received in the name of Tmt.Nalina Jasulin and registered vide KAL.169.D on 19/10/2022. The former Assistant Engineer, Kalapet has cancelled the application as the house has not be constructed and the same is remarked as application cancelled and no house is existing. The application is found to be misplaced while shifting of office from ECR Road to Bungalow Street, Kalapet. Further on enquiry it is stated that the land belong to Selliamman Koil Temple which is

under the purview of the Hindu Religious Institutions, Government of Puducherry. As the previous application has been cancelled by former Assistant Engineer, Kalapet, fresh application may be submitted by the applicant for further processing. Along with the application the applicant may be requested to produce No Objection Certificate from the Hindu Religious Institutions, Puducherry as the land belongs to Selliamman Koil Temple. Hence, on receipt of proper application, service connection will be processed as per law and terms and conditions of JERC Supply code Regulations 2018. Further, it is stated that the Special Officer of Selliamman Temple cum Sub-Inspector of Policy, Kalapet, Police Station that the land comes under the purview of the HRI and is governed by the Puducherry HRI Act and rules and necessary permission be obtained from the Department of HRI and Wakfs, to accord any permission on the temple land. Further it is also stated that the applicant who is a tenant to the temple land has got a huge arrear in rent to the Government and the Special Officer has submitted a written objection for considering any application as against the provision of Puducherry HRI Act and Rules.

4. Hearing was held on 29/08/2023. Both the Complainant and the Respondents were present. During the hearing the Complainant stated that she was staying in the place since 2010. Earlier in a hut which is not she has modified as tinned roof house. Earlier the Department suggested to apply for permanent connection after completing the house. There are already 5 houses in the same area and got service connection. She further stated that no one objected her while constructing the house. No one has issued any notice towards vacating the land. She had also stated that she has not received any notice from temple authorities for payment of rent. The Forum had asked her to file reply in writing whether any rent notice has been received from the temple authorities for payment of rent etc., within 3 days. The Petitioner had filed written reply on 30/08/2023 stating that no notice has been issued to her for payment of rent, by

the temple authorities. The Respondent No.2 when asked whether he had inspected the area and he replied that he had not inspected. But the Complainant had informed that the Assistant Engineer had come in a car when it was raining, along with a staff and had inspected the house, for which there is no reply from the Respondent No.2. The Respondent No.2 further asked any written notice was sent to the Complainant after cancellation. He replied that notice was not sent, but entry has been made in the register about the cancellation of the service. The Respondent No.2 has been further questioned whether he has seen the application under the purview of the Electricity (Rights to Consumer) Rules 2020 and Orders issued by the Department for implementation of the same. The Respondent No.2 was asked to file additional Affidavit after examination of Rules within 3 days.

5. In the additional Affidavit dated 13/09/2023, the Assistant Engineer, Kalapet/ Respondent No.2 for himself and on behalf of Respondent No.1 and 3 has stated that the proviso of the Puducherry Hindu Religious Institutions Act, 1972 clearly states that any transaction relating to the immovable property belonging to the Institution (Temple) shall be null and void unless it is sanctioned by the Commissioner(HRI) as being necessary or beneficial to the institution. And also the Commissioner is deemed to be the custodian of all temple properties and the Special Officer of Sri Selliamman Temple –cum- Sub-Inspector of Police (Kalapet) has been designated / delegated for this purpose. While being so, the Special Officer has submitted his written communication, so as to restrain any transaction with the said temple land. As it is violative of the PHRI Act and rules and hence considering the application of the Complainant could be considered only on prior sanction by the Commissioner HRI, as per PHRI Act. The Petitioner application submitted earlier has been cancelled by the former Assistant Engineer and recorded in the Application Register as “application cancelled and no house existing”. As on 31/11/2022 the

pending application details given by the former Assistant Engineer, Kalapet and Junior Engineer, Kalapet for the meeting of Superintending Engineer O&M /PR and Executive Engineer, Rural-North, the application of Tmt. Nalina Jasulin is not given in the pending list as it has already closed as house has not been constructed. So the pending or delay will not be attributed to the part of the undersigned Respondent No.2. And subsequent consideration of this application does not arise. Hence the applicant may be advised to submit a proper fresh application along with prior sanction by the Commissioner HRI, as per the PHRI Act which would be considered immediately if the construction and electrical works are duly completed in all respects.

6. Since the Forum is not happy with the presentation of the Respondent No.2, the Respondent No.1 was called in person on 14/09/2023 for discussion with the Chairman. During the discussion the Respondent No.1 agreed to inspect the premises and the Respondent No.1 was asked to file a written report / Affidavit within 3 days. But reply is yet to be received from the Respondent No.1 till date.

Observation: i. The statement of Respondent No.2 that the application has been cancelled in the register and no written notice was sent to the Complainant, is not acceptable. As per the Supply Code 2018, the applicant has to be informed in writing about the cancellation. The missing of the application during the shifting of office shows negligence of the officials concerned in handling the records.

ii. During the hearing the Respondent No.2 was asked to explore the possibility for extension of service connection to the Complainant with reference the Electricity (Rights to the Consumer) Rules 2020 and the instructions issued by the Department. Surprisingly the Respondents quoted the provision of HRI Act. It is not clear when and who has extended the applicability of the said act to the Department. In the present case, the temple authorities have neither stopped the construction nor taken any action for eviction. Hence, the action of the

Respondent No.2, in quoting the provisions, which are not applicable to the Department, needs to be checked. The Special Officer had given the objection under the signature of Station House Officer and not under the seal of the Special Officer of the temple. Further no documents has been enclosed in proof of the land ownership. Hence it is upto the temple authorities to take action, as deemed fit within their powers.

iii. The Complainant had produced copies of Aadhar and Family Ration Card for staying there and hence she got status of 'Occupier' as per the provisions of Electricity Act 2003 and Supply Code 2018. As per the provision of Supply Code 2018 extension of service connection does not confers right of the property. It is only service extended to meet the basic needs of the individual. An extract of the Orders of the Hon'ble Supreme Court in the State of Karnataka V. Narasimhamurthy (1995(5) SCC 524:JT(1995)6 SC 375 SCC(P) 526 para 7: JT at P.378, para 7) is reproduced below wherein the Hon'ble Court held that *right to shelter is a fundamental right to shelter is a fundamental right under Article 19(1) of the Constitution. To make the right meaningful to the poor, the State has to provide facilities and opportunity to build houses. Acquisition of the land to provide house sites to the poor houseless is a public purpose as it is a constitutional duty of the state to provide house sites to the poor*

8. In any organised society, right to live as a human being is not ensured by meeting only the animal needs of man. It is secured only when he is assured of all facilities to develop himself and is freed from restrictions which inhibit his growth. All human rights are designed to achieve this object. Right to live guaranteed in any civilised society implies the right to food, water, decent environment, education, medical care and shelter. These are basic human rights known to any civilised society. All civil, political, social and cultural rights enshrined in the Universal Declaration of Human Rights and Convention or under the Constitution of India

cannot be exercised without these basic human rights. Shelter for a human being, therefore, is not a mere protection of his life and limb. It is the home where he has opportunities to grow physically, mentally, intellectually and spiritually. Right to shelter, therefore, includes adequate living space, safe and decent structure, clean and decent surroundings, sufficient light, pure air and water, electricity, sanitation and other civic amenities like roads etc., so as to have easy access to his daily avocation. The right to shelter, therefore does not mean a mere right to a roof over one's head but right to all the infrastructure necessary to enable them to live and develop as human being. Right to shelter when used as an essential requisite to the right to live should be deemed to have been guaranteed as a fundamental right”.

ORDER

- i. In view of the above observation, the Respondents are directed to obtain fresh application from the Complainant and register with the old date and process the same under various provisions cited above and effect service connection within 15 days from the date of the Order. A compliance Report shall be sent to this Forum within 7 days after that.
- ii. Time delay by the Respondent No.2 in filing additional Affidavit and non filing of the report by the Respondent No.1 after discussion with the Chairman, will amount to the non-compliance of the Orders of the CGRF and may force the Forum to refer the case to JERC subsequently.
- iii. Thus, the complaint is allowed.
- iv. 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 Union Territories, 3rd Floor, Plot No. 55-56, Pathkind Lab Building, Service Road, Udyog Vihar, Phase IV, Sector -18 Gurugram, Haryana-122015; Phone 0124-4684708; email

ombudsman.jercuts@gov.in within 30 days from the date of this Order under intimation to this Forum and the Respondents.

v. Non-compliance with the directions of Forum by the Licensee shall attract remedial action under Sections 142 and 146, of the Electricity Act 2003.

Dated at Puducherry on this the 3rd day of October, 2023

Sd/-
(R. KRISHNAMURTHY)
JERC NOMINATED MEMBER

Sd/-
(A.S. JITENDRA RAO)
LICENSEE MEMBER

Sd/-
(T. GOPALAKRISHNAN)
CHAIRMAN