

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

FRIDAY, THE 26TH DAY OF NOVEMBER 2021

CONSUMER CASE No.79/2021

G. Gnanalakshmi,
No.4, First Cross extension,
Puduvai Sivam Street,
Venkata Nagar,
Puducherry – 605011.

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Complainant

Vs.

- 1) The Executive Engineer-Urban O&M,
Electricity Department,
Puducherry.
- 2) The Assistant Engineer –Town-II,
Electricity Department,
Puducherry.
- 3) The Junior Engineer –Venkata Nagar,
Electricity Department,
Puducherry.

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Respondents

This case in C.C. No.79/2021 came up before this Forum for final hearing on 19/11/2021. 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:

1. A Complaint was received from G. Gnanalakshmi on 12/10/2021. In the Complaint the Complainant stated she is living in the above mentioned address along with her daughter. The house is owned by her Father-in-Law. There are three service connections in the above said address as mentioned below:

1. 05-24-01-0064 – Three phase
2. 05-24-01-0064A – Single phase
3. 05-24-01-0064B – Single phase

After death of her husband her in laws along with her nephews have been trying to dispose her from the property constructed by her husband. They had intentionally cut the basic amenities like water and electricity. A case has been filed vide reference number OS 21/2021. Unfortunately, the Junior Engineer, had also joined hands with the cutting of electricity of her portion alone. On 19/03/2021 a staff from the Department came to her floor and asked to pay Rs.25,000/- for pending bill amount. She explained that the service connection was shared with her in-laws and only one third of the bill amount is paid by her promptly to her in-laws. The Department staff asked to meet the Junior Engineer. She had waited for half a day to meet the Junior Engineer with sick child at hospital. There was no proper response. She asked the Junior Engineer to share the policy number and bill copy, he refused and kept pressurising to pay the bill amount. At that circumstance, the issue was resolved with the intervention of police, the Department restored the connection to her portion. On 14/09/2021 the current to the policy number 05-24-01-0064 was disconnected only to her portion, whereas power supply was available in the ground floor. When the issue was raised before the Junior Engineer for clarification, he said he was unaware how the current is available for other portions. Again, the Department started pressurising to pay Rs.65,000/- for restoring current to her portion. She had contacted the Department for two days on 15/09/2021 and 16/09/2021 seeking clarification why electricity was disconnected to her portion. As there was no proper response from the Department she had contacted the local

people's elected representative and got the connection resumed after part payment of bill. The MLA had also given a letter to avail separate connection. The Junior Engineer asked to submit the application along with NOC from her father in law. The same was obtained and submitted on 20/09/2021. Later one staff from the Department came to her portion to divert the existing meter of the first floor to her portion and replied that she was not eligible for three phase or new connection. On this issue, she approached the Junior Engineer and requested for three phase since she is going to get washing machine and air-conditioner. On 08/10/2021 she approached the Department for clarification for the policy number so as to pay the bill. Again the Junior Engineer joined hands with her in-laws to prevent from receiving separate service connection. She had requested for three phase service connection, since the existing single phase had severe fluctuation. Hence, the Complaint.

2. The complaint has been registered as C.C. No.79/2021 on 13/10/2021 and the copy of the complaint was sent to the Executive Engineer, Urban O&M and others to furnish reply by 26.10.2021. Reply from the Respondents was received on 26/10/2021.

3. In the Affidavit dated 26/10/2021, the Assistant Engineer, Town-II / Respondent No.2 on behalf of first and third Respondents had stated that, all the averments are false except one admitted in this regard. There exists three numbers of domestic service connection standing in the name of M.S. Swaminathan as detailed below:

1. 05-24-01-0064/A2
2. 05-24-01-0064A/ A2
3. 05-24-01-0064B /A2

Due to non payment of current consumption charges for Rs.25,000/- the service connection 05-24-01-0064/A2 was disconnected on 19/03/2021. On payment of

Rs.9500/- the service connection was reconnected. Further, payment of current consumption charges is the responsibility of the policy holder or the occupant. Further the current consumption charges bills were issued normally to the available person or kept in the energy meter box. Further the policy holder modified the wiring and the service connection to the policy 05-24-02-0064/A2 was fed to the Complainant only. Again due to non payment of current consumption charges for Rs.65,000/-in policy code 05-24-01-0064 the service connection was disconnected on 23/09/2021. After payment of Rs.51,000/- the service was reconnected. There are no dues on the other bills. After verification of records, M.S. Swaminathan has not applied for any additional service connection. It has come to know before applying for new service connection, the Complainant has furnished only copy of the application. Further it is a family dispute and the Electricity Department has no role in it. Further the Department staff have not misbehaved in any manner. A copy of the Affidavit dated 26/10/2021 was sent to the Complainant. Hearing of the case was posted 19/11/2021. Hearing was attended by both the parties. The Complainant was represented by her daughter through authorisation.

4. The Complainant on 03/11/2021 given para-wise counter to the Affidavit furnished by the Respondent No.2. In the counter reply, the Complainant had stated that service was shared with S.M. Swaminathan till 23/09/2021. She had made her share of payment and the same was duly acknowledged by S.M. Swaminathan and issued consent to get separate connection (copy enclosed). On 19/03/2021 staff from the Department came to the second floor informed her of the disconnection at the behest of her in-laws residing in the ground floor for non payment. On 14/09/2021 the service connection was disconnected, whereas supply was in ground floor. When query was raised to the Junior Engineer in his Office, whether supply of power to the ground floor was disconnected or not, he stated that they might have taken loop from other live services. Further the application was also given to the Department and a copy of the application was given to S.M. Swaminathan for

records. She has enclosed a copy of the above application and copy of the screen shots from CCTV for the pressure given by the Department staff coming to her portion, informing disconnection and reiterating that the Junior Engineer was supporting the House Owner and harassed her.

5. In the hearing held on 19/11/2021, both the parties appeared. On behalf of Respondent No.1, only Respondent No.2 and others were present and it was stated that no application was received and the records was also verified. The copy of counter reply received from the Complainant, was handed over to the Respondent and directed to furnish additional Affidavit. The Executive Engineer (Urban) O&M was also called to this Forum and directed to give his statement in this case, as the gravity of the Complaint made by the Complainant was most serious in nature. Next hearing was posted on 19/11/2021. Hearing was attended by both parties.

6. The Executive Engineer, Urban / Respondent No.1 in his Affidavit dated 17/11/2021 produced ledger copy and as per the data base the following services exist in the billing ledger.

05-24-01-0064	S.M. Swaminathan 25D, (4) First Cross East Extension Vengatta Nagar
05-24-01-0064A	S.M. Swaminathan No.4 First Cross extension (I Floor) Vengatta Nagar
05-24-01-0064B	S.M. Swaminathan No.4 First Cross extension (II Floor) Vengatta Nagar

Originally the above services were given for use in the floors mentioned above and the services to the first and second floor were reported to have been extended on 26/10/1999 as per the data base available in the department. As per the statement of the Complainant and as per the field condition, it is found that the policy number 05-24-01-0064 is fed to the ground floor and second floor, policy number 05-24-01-0064A is fed to the tenant on the first floor and policy number 05-24-01-0064B is also fed to the tenant on the first floor. The re-arrangement of the wiring is not known to the Department.

7. During the monthly disconnection of defaulters, the Junior Engineer, Venkata Nagar O&M has sent the field officials to disconnect the service with the Policy No.05-24-01-0064 which has an arrears of Rs.23,624/- as on 19/03/2021 along with other defaulters. When the field officials approached the house for disconnection, it is the normal procedure to inform the inmates about the disconnection and in case if the occupant has paid the charges the disconnection would not be carried out. When informed about the disconnection, the consumer at the ground floor directed the field officials to contact the occupier at the second floor. Having no idea about the sharing of current consumption charges, the fieldsmen went upstairs and informed about the disconnection. During which time an unwanted and unfortunate wordy duel happened there which is regretted. However, the department personnel have been advised on behaving politely to the consumer during such disconnection drives.

8. Not getting into the family feud which exists, the service connection was reconnected on 23/03/2021 after payment of a part of the arrears i.e., 9500/- on 23/03/2021.

9. Duplicate copies of the bill are not normally permitted to be generated in the existing system. However, a statement showing the details of consumption and current consumption charges paid can be given on request. If required, the Department can give a complete generation of the ledger copies of any month requested by the Complainant.

10. Again on 14/09/2021, the policy 05-24-01-0064 was disconnected for non payment of current consumption charges of Rs.58,706/-. It has been alleged by the Complainant that the supply to the second floor alone was disconnected and there existed power supply to the ground floor. Upon perusal of the consumption pattern of the policies in the first floor viz 05-24-01-0064A and 05-24-01-0064B there exists a slight raise in the consumption of the policy 05-24-01-0064B for the month of September 2021.

11. But looping from the first floor as complained by the Petitioner, ie., from the other policies existed in the building could not be conclusively established. However, requisition has been made to the MRT wing of the Department to Policy number 05-24-01-0064B for possible misuse or un-authorised extension of the supply. If this is established, necessary action would be taken as per the Supply Code. The service with policy number 05-24-01-0064 was reconnected on 23/09/2021 after payment of Rs.51,000/-

12. Upon enquiry, the Junior Engineer, Venkata Nagar, categorically denied that he had sent any person from the Department for diverting the service connection with Policy number 05-24-01-0064B to second floor. Further it may be seen from the ledger taken way back during the previous months that the service with the policy number 05-24-01-0064B has its address

S.M. Swaminathan,
No.4, I cross east extension (II Floor)
Venkataa Nagar, Puducherry.

Hence, there was no change in the Department data base without the knowledge of the policy holder about the service. The Department does not deny a separate service connection to the applicant if applied in the proper format with necessary documents.

13. A separate application has been obtained from the Complainant and supply would be extended based on proof of occupancy. However, the applicant is yet to complete wiring as on 17/11/2021 and the applicant has been accordingly informed.

14. The Department expresses its concern over the unfortunate wordy duel that happened between the complainant and the fieldstaff.

ii. The field staff have been instructed to behave politely and cordially with the consumer.

iii. Wiring rearrangements and diversion of service connection policies beyond the supply point cannot be monitored by the Department until a separate inspection of

the connection is made. This would be dealt separately as per Supply Code and notices would be given to such violation / un-authorised extensions.

iv. The Department is ready to extend a separate service to the applicant as per Supply Code.

v. During disconnection of domestic service, it is the duty of the field staff to inform the consumer before disconnection for possible payment by the consumer during the interim period of generation of disconnection list and actual date of disconnection.

vi. It is clearly a family feud, and the department personnel shall not be involved in whatever manner. This would spoil the morale of the field staff who are given the task of realization of the arrears under disconnection drive of defaulters which would result in non-achieving of revenue collection.

Observation: i. The Complainant had produced screen shot of the CCTV showing the Department staff coming to the second floor of the Complainant's portion and another photo showing availability of the power in ground floor portion of her in-laws from the same shared service connection even after disconnecting power supply.

ii. The Respondent had not given any downloaded details using technology advancement from the energy meter to counter the above allegation and come out clean hands on allegations made. The Respondent had also not taken any action for illegally tapping power supply to the disconnected service on defaulting payment which tantamounts to theft of energy.

iii. Month-wise bill amount for all the service in the premises and details of payment made are not furnished to establish that separate service is available to the Complainant and she is the only defaulter.

iv. In the hearing the Complainant produced a copy of the bill in the name of S.M. Swaminathan, which clearly indicates service 05-24-01-0064B in second floor is exclusively available. As such there is no need for a new separate service. Further, this Forum does not want to create the confusion since the details of one civil suit

O.S. NO.21/20-21 pending in the Civil Court, is not known. In case additional load are installed by the Complainant, she may file enhancement application from single phase to three phase and the Department should process the application as per Supply Code 2018. As the separate service connection bearing Policy number 05-24-01-0064B is presently available in the second floor for the use of the Complainant, additional service connection in favour of the Complainant does not arise. This Forum is not getting into the issue of ownership but only interested that no citizen should be made to suffer without electricity by disconnecting power, a basic amenity due to family dispute. The Complainant by virtue of being an occupant in the above said address is entitled to have separate service connection in her name even in the absence of the consent of her in-laws / owner.

v. This Forum relied upon the Judgement of Hon'ble Supreme Court in AIR 2011 SC 2897 Chandu Khamaru v. Smt Nayan Malik, wherein, Supreme Court has come to interpret sub-Section (1) of Section 41 and has held that in case of family dispute, the Electricity Act takes full care for grant of electricity connection and it ensures that nobody is deprived of electricity connection only on account of internal family dispute. In the same case the Hon'ble Supreme Court while interpreting the provision of Section 43(1) of the Act 2003, observed as follows:

“Sub section (1) of Section 43 provides that every distribution licensee, shall on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply. These provisions in the Electricity Act 2003 make it amply clear that a distribution Licensee has a statutory duty to supply electricity to an owner or occupier of any premises located in the area of supply of electricity of the distribution licensee, if such owner or occupier of the premises applies for it, and correspondingly every owner or occupier of any premises has a statutory right to apply for and obtain such electric supply from the distribution licensee.”

vi. Thus the Complainant has a statutory right to apply for and obtain supply of electricity from the Distribution Licensee and the Distribution Licensee has a corresponding statutory obligation to supply electricity to the Complainant.

vii. As a matter of fact, an Indemnity Bond, deals with the situation where an occupier of the premises applies for the grant of an electricity connection, but is unable to produce the consent of the owner. Obviously, in a situation, where a dispute is between the owner and occupier (in the present case, the dispute is between members of family) a provision has been made for furnishing an Indemnity Bond.

Applying the above said provisions to the facts of the present case, we find that the Complainant though is in possession of the premises she is an Occupier of the premises being Daughter-in-Law of the owner, a genuine Occupier. Thus, it is a clear case of family dispute between the Father-in-law with his Daughter-in-law and NOC is not being given, or in other words objection is being raised only on account of this dispute.

Further, the Additional District Consumer Dispute Redressal Forum of Vadodara has observed that "if the landlord refuses a separate electricity connection to the tenant it would be illegal and also inhuman, since electricity is now become essential service and also a Fundamental Right under Article 21 of the Constitution of India. Thus the application for grant of electricity connection could not be refused by the Licensee on the ground that there is no consent of landlord. The Licensee should confer upon the person making the application for supply of electrical energy in case he or she submit indemnity bond, Lessee / Tenant / Occupier could not refused electricity connection merely for want of consent of the Landlord.

From the above observation, the Complainant is entitled to get a separate service connection in her name.

ORDER

i. The complaint is allowed to the extent of separate service connection ensuring peaceful enjoyment without any interference.

- ii. In case the Complainant seeks enhancement of existing service 05-24-01-0064B/A2, now provided to her floor the same should be processed as per Supply Code 2018.
- iii. The Executive Engineer, Urban is directed to conduct a discrete enquiry on the functioning of the officials of the Section Office and take appropriate action to avoid such complaint of partisan attitude towards the Complainant.
- iv. The Complainant is at liberty to prefer an appeal against this Order before the Ombudsman, Joint Electricity Regulatory Commission for the state of Goa and Union Territories, 3rd Floor, Plot No. 55-56, Pathkind Lab Building, Service Lane, Udyog Vihar, Phase IV, Sector -18 Gurugram, Haryana-122015 within 30 days from the date of this Order under intimation to this Forum and the Respondents.

Dated at Puducherry on this the 26th day of November, 2021

Sd/-

(R. KRISHNAMURTHY)
JERC NOMINATED MEMBER

Sd/-

(A.S. JITENDRA RAO)
LICENSEE MEMBER

Sd/-

(T. GOPALAKRISHNAN)
CHAIRMAN