

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

MONDAY, THE 10TH DAY OF JULY 2023

CONSUMER CASE No. 87/2023

Marue Nazira,
W/o Jost Laurent Bernard
D/o Ramachandran Velayudam @ Selvaradjapandian,
No.19, Laporth Street,
Puducherry-605001.

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Complainant

Vs.

- 1) The Executive Engineer- Urban,
Electricity Department,
Puducherry.
- 2) The Assistant Executive Engineer –Town-I
Electricity Department,
Puducherry.
- 3) The Junior Engineer –Town South,
Electricity Department,
Puducherry.

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Respondents

This case in C.C. No.87/2023 came up before this Forum for final hearing on 27/06/2023. After hearing both sides 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 Marie Nazira on 24/05/2023. In the complaint, the Complainant had stated that She had purchased a property at St. Louis Street near Roman Rolland Library. During the time of purchase the old building was demolished and vacant plot was sold after demolition. The previous owner has cleared all the arrears of electricity. She has applied for Temporary service in 2022 for constructing new building in the plot. She was informed that there is another 'A1' tariff service with arrears amounting to Rs.13,40,000/- and the temporary service will be effected only after clearance of arrears. After returning from France, she has again applied for temporary service on 30/03/2023. But the Department again refused to give service. The previous electricity connection was in the name of Padmavathy Premchand Shah, who had cleared all the dues to the Department in the past and informed that no outstanding in her name and she is not aware of another service in the said premises. When the Complainant has approached the Revenue-1 Section, the officials informed that there was a policy in the name of Alphassa which was treated as ODC in 2014. Because of delay in effecting the service to her plot she has lot of mental agony. Therefore, the Complainant prayed this Forum to issue necessary directions to the Respondents for effecting service. Hence the complaint.

2. The complaint has been registered as C.C. No.87/2023 on 25/05/2023 and copy of the complaint was sent to the Executive Engineer –Urban and others for giving reply by 05/06/2023. Reply from the Respondents was received on 05/06/2023. The case was posted for hearing on 14/06/2023.

3. In the Affidavit dated 05/06/2023, the Assistant Executive Engineer Town-I/ Respondent No.2 for himself and on behalf of Respondent No.1 and 3 has stated that

The Complainant has filed a complaint related to the revision of current consumption charges in the existing service connection bearing Policy Code No. 04-17-05-0575/A1 standing in the name of Tmt. M. Alfassa at No.17, St. Louis Street, Puducherry. Further the Complainant has applied for one temporary service connection for her building construction purpose at No.32(47) St. Louis Street, Puducherry. In this regard, the field official has inspected the premises and reported that already two nos. of service connections are existed in the premises.

a. One for domestic service bearing Policy Code No. 04-17-05-0576/A2 standing in the name of Tmt. Padmavathi Premchand Shah No.32(47) St. Louis Street, Puducherry. The above service was cancelled.

b. Another one commercial service bearing Policy Code No. 04-17-05-0575/A1 standing in the name of Tmt. M. Alfassa No.17 St. Louis Street, Puducherry was cancelled as ODC under Revenue Recovery Act vide Order dated 26/07/2017. The arrear amount of the said service connection is Rs.12,59,554/- on the date of cancellation. The same was intimated to the Complainant vide letter dated 19/05/2003 to pay the dues of cancelled service connection before effecting the temporary service connection. The above said location already under long door locked condition due to some dispute. Further the Complainant or building owner of the premises demolished the existing building without department knowledge. The above said building power supply line has not been disconnected and has not removed the meters by the Department official. The service connection has been disconnected for non-payment of current consumption charges during 2017. The buyer / Complainant was very much aware that there was no power supply and disconnected for non payment of current consumption charges. As per the JERC Supply Code 2018 page 23 *“when the applicant has purchased an existing property whose electricity connection has been disconnected, it shall be the applicant’s duty to verify the previous owner has paid all the dues to the Licensee and obtained a No-Dues Certificate from him. In case where No-Dues Certificate has not been obtained by*

the previous owner before change in ownership of property, the new owner may approach the Licensee for such a certificate. The Licensee shall acknowledge receipt of such request and shall either intimate in writing the dues outstanding on the premises. If any, or issue a No-Dues Certificate within one month from the date of receipt of such application”

4. Hearing was held on 14/06/2023. Both the Complainant and the Respondents were present. During the hearing the Complainant was asked to produce land link documents from the previous owner Padmavathy Premchand Shah to her name and also a copy of Certificate of Encumbrance issued by the Registration Department, Puduchery. At the same time, the Respondents were directed to clarify the following in the additional Affidavit: (i) The service in the name of Padmavathy Premchand Shah was existing in Door No.32(47) St. Louis Street; whereas the service in the name of Alfassa was existing in Door No.17, St. Louis Street. When the Door Nos. are different how the services are related. (ii) If Tmt. Alfassa was Tenant of the property on what terms service was extended in the name of Alfassa and directed to produce the policy file of the erstwhile connection to verify the documents. (iii) When the two services are existing in the name of some other location, the Department cancelled the A2 service in the name of Padmavathy Premchand Shah after collecting the arrears without mentioning anything about the arrears of Alfassa. The Department should explain how the service was cancelled after forgetting arrears in some other policy. The Respondents are asked to furnish additional details by 20/06/2023. The case was posted for further hearing on 27/06/2023.

5. The Complainant had filed additional details as directed by this Forum. The Respondents filed additional Affidavit on 27/06/2023. In the Affidavit dated 27/06/2023 a letter has been sent to the Office of the Junior Accounts Officer, Rev.I on 26/06/2023 to revise the current consumption bill bearing Policy Code No. 04-

17-05-0575/A1 standing in the name of Tmt. M. Alfassa. Since the building was under demolished condition since March 2010 and request to revise the bills from March 2010 accordingly. Further, the service connection was disconnected during October 2014 due to non-payment of current consumption charges. Hence, the above, said service connection was cancelled in the month of April 2015. Based on the field report, the Revenue-I section has revised the bill from March 2010 to March 2015 and the arrear amount arrived is Rs.11,05,479/-. Further, the Policy file (Policy Code No. 04-17-05-0575/A1) is not traceable and also reported that the above said two nos. of service connection exists in the same premises. Any new service connection could not be extended to the same premises upon payment of pending arrears. Further, as per Section 5.20 of Supply Code 2018, the consumer has to get NOC after clearing of all the arrears due to the Department before purchasing the property. Therefore, it is the responsibility of the consumer to clear the arrears due to the Department.

6. During the second hearing held on 27/06/2023, the Respondents stated that in spite of their best efforts, they did not locate the policy file. The Respondents were asked when the service in the name of Alpassa was cancelled on 26/07/2017 and referred to Revenue Recovery Act and what is the necessity in revising the arrears now to an amount of Rs.11,05,479/-. Why the Department is going on changing the amount, when the service was cancelled and referred under Revenue Recovery Act. The Respondents have been explained that since the Complainant purchased the building from Padmavathy Premchand Shah and whose service connection was cancelled by the Department after collecting the arrears, the Department cannot invoke the provisions of Section 5.20 of Supply Code 2018. The Respondents were orally directed to process the temporary service application of the applicant without waiting for the Orders of this Forum.

Observation: i. The service connection in the name of Padmavathy Premchand Shah was existing at 32(47) St. Louis Street; whereas the service in the name of Alphassa was existing at No.17 St. Louis Street. The Department did not produce any document or lease agreement to show that both services were in the same place. Without any documentary evidence, mere statement of Respondent No.2 that both the services are in the same place is not accepted.

ii. When there are arrears in 2 services in the same location, the Department should explain how they have collected arrears for only one service without discussing arrears about the second service.

iii. The Department is not having documentary proof that the Department had claimed arrears pertaining to Alphassa from Padmavathy Premchand Shah at any time. As per the Affidavit of the Department the service was cancelled in 2017 and referred under Revenue Recovery Act and the Respondent No.2 also informed that they have not send any bill after that.

iv. Provision of 7.40 of Supply Code is reproduced below:

“No sum due from any consumer on account of default in payment shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrears of charges for electricity supplied.”

As per the above provisions, the Department cannot claim arrears from the Complainant.

ORDER

i. In view of the above observation, the Respondents are directed to collect arrears in the name of Alpassa under Revenue Recovery Act for which action has already been initiated and should not insist payment of the same by the Complainant.

- ii. The Respondent should effect temporary service / service connection in the name of the Complainant as and when the Complainant submitted a valid application. The Depart shall effect temporary service connection within 7 days after making payment of necessary charges such as Security Deposit, Service connection charges by the Complainant.
- 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.

Dated at Puducherry on this the 10th day of July, 2023

Sd/-
(R. KRISHNAMURTHY)
JERC NOMINATED MEMBER

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

Sd/-
(T. GOPALAKRISHNAN)
CHAIRMAN