

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

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**Before :**

Shri. R. Ravichandar, Chairman,  
Smt. Biji Thomas, Independent Member (JERC Nominated)

**In the matter of :**

Shri. Naresh Chandra Paul, S/o Late Dwijabar Paul, R/o Madhupur village,  
Ward No. 2, Diglipur, North Andaman bearing Consumer No. Y6/53  
(Domestic).

.....Complainant

**Versus**

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

.....Respondent

**Complaint No.** : ANI/CGRF/277/23-24/09 dated 19/06/2023  
**Complaint** : Providing Additional Connection bearing Consumer No.  
Y6/53 (Domestic)  
**Date of Hearing** : 11/07/2023  
**Date of Order** : 16/08/2023

**ORDER**

**Background**

Shri. Naresh Chandra Paul, S/o Late Dwijabar Paul, R/o Madhupur village,  
Diglipur filed a complaint vide R.D. No. 53 dated 19/06/2023 for providing  
additional new connection bearing Consumer No. Y6/53 (Domestic).

The complaint was forwarded on 19/06/2023 to the Assistant Engineer  
(Wks), Nodal Officer for CGRF, Executive Engineer(NAD), Assistant  
Engineer(Diglipur), Electricity Department who represents the Respondent/  
Licensee(ED) for submitting reply/comments and for attending the Hearing  
fixed on 11/07/2023 at 10:30 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 11/07/2023 at 10.30 a.m.

The Respondent on behalf of Licensee (ED) i.e. Executive Engineer(NAD),  
Electricity Department filed his letter No. EL/EE/NAD/Tech/4-15/2023/615  
dated 10/07/2023 submitted reply/comments on behalf of the Licensee/  
Respondent (ED), which was received by the Forum through whatsapp on  
10/07/2023, which is kept in case file **(Exbt.-1)**.





**Hearing on 11/07/2023**

The Hearing was held on 11/07/2023 in the Hearing Hall, Electricity CGRF at 10:30 a.m. The following were present: -

- (i) Shri. Naresh Ch. Paul, Complainant.
- (ii) Shri. Binoy Kr. Jaydhar, Assist Complainant.
- (iii) Shri. Suresh Kumar, AE (Works), Nodal Officer for CGRF.
- (iv) Shri. Parichat Narayan, AE(T&D), Elect. Dept.
- (v) Shri. Suresh Singh, LMMR, Elect. Dept.

**Statement of the Complainant**

Complainant Shri. Naresh Ch. Paul stated in his complaint letter dated 19/06/2023 that "I am a senior citizen, aged about 92 years old, residing on the abovementioned address since 5th October, 1981. On 05.10.1981, I have purchased a piece of land from Late. Jadab Chandra Biswas, S/o Late. Istamber Biswas, R/o Madhupur village under Diglipur Tehsil in North and Middle Andaman district by executing an unregistered Sale Deed dated 05.10.1981. Late. Jadab Chandra Biswas was the recorded tenant of the land bearing survey no. 107, measuring an area of 1.81 hecets., situated at Madhupur village under Diglipur Tehsil. Out of the total area of 1.81 hecets., I have purchased a portion of land, measuring an area of 7,200 sq. ft. from the said landed property (bearing survey no. 107, situated at Madhupur village under Diglipur Tehsil) of Late. Jadab Chandra Biswas. Soon after the execution of the Sale Deed (unregistered), I have constructed a residential house on the piece of land purchased from Late. Jadab Chandra Biswas. I have also obtained water - tap connection and electricity meter connection (consumer no. Y6/52) for the residential house constructed on the piece of land purchased from Late. Jadab Chandra Biswas. From the last 42 years, I am residing on my aforementioned purchased land with my family. Over the period of time, my family has been extended and subsequently, I had to expand the size of my house.

One electricity meter connection (Consumer No. - Y6/52) is not sufficient to fulfill the total requirement of our house. So I have approached the Assistant Engineer, Electricity Department, Diglipur and filed a requisition for additional meter connection but the same was rejected by the Assistant Engineer with an endorsement "submit a copy of registered sale deed". Since, Mr. adab Chandra Biswas is already deceased and his legal heirs are neither agree to register the sale deed nor they are willing to give NoC to obtain the additional electricity meter connection.

It is pertinent to mention here that I am residing on the aforementioned landed property from last 42 years without any objection from the recorded joint tenants of the aforementioned land/the legal heirs of late. Jadab Chandra Biswas. Even if the Sale Deed is unregistered, I have adverse possession over the aforementioned land since 05.10.1981.



Therefore, it is my humble request to your goodself to kindly pass an order to provide additional electricity meter connection in my name at the earliest for which I shall remain grateful to you”.

The complainant submitted the photocopies of representative letter dated 06/06/2023 vide R.D. No. 3019 dated 10/06/2023 addressed to AE(Diglipur), new connection application form, Ration Card, Aadhaar Card, Islander Identity Card, Resident Certificate, ROR , Map and Sale Deed, which is kept in the case file (Exbt.-3).

**Reply of the Respondent/Licensee (ED)**

The Executive Engineer(NAD) on behalf of the Respondent/ Licensee(ED) in his written submission letter dated 10/07/2023 has stated that “NSC application dated 06.06.2023 of Shri. Naresh Chandra Paul, S/o Late Dwijabar Paul, R/o Madhupur Ward No. 2, bearing AE(T&D) Office R.D. No. 3019 dated 10/06/2023 was returned in original to party due to non-submission of ‘Copy of Registered Sale Deed’. Suitable remarks for information of party has also been recorded on the cover letter of NSC application (Copy enclosed)”.

The Respondent/Licensee(ED) has submitted photocopy of Shri. Naresh Chander Paul’s letter dated 06/06/2023, which is kept in the case file.

**Submission of the Complainant**

The complainant Shri. Naresh Chandra Paul stated in his oral submission that he has constructed a new house, which was recorded in the names of Shri. Subrotha Biswas and 4 other bearing Survey No. 107 measuring an area 1.81 Hect.

Further, he stated that he is enjoying electricity connection in his name bearing consumer No. Y6/53 and, now, he has applied for additional electric connection for the newly constructed house in which his grandson Shri. Sorojit Pal was staying with his mother Smt. Anju Pal.

**Submission of the Respondent (Licensee)**

The AE (Workshop), Nodal Officer (CGRF) and the AE(T&D), Elect. Dept. is present on behalf of Respondent/Licensee (ED) has stated that the application for grant of additional connection was rejected due to insufficient documents.

Further, he submitted that complainant is already enjoying an electric connection in his name. Now, the complainant had constructed a new house in the adjacent area, wherein her daughter-in-law Smt. Anju Pal lives with her son.



### Forum's Observation

The Forum observed that the Respondent/Licensee (ED) has not submitted para-wise comments to the complainant wherein directed to endorse the parawise comments to the complainant vide Forum's letter dated 19/06/2023.

The Forum went through the documents submitted by the Shri. Naresh Chandra Paul meticulously (i.e. Aadhaar Card, Ration Card, Resident Certificate etc.), and also gave a statement regarding the circumstances of non-registration of sale deed in the open Forum. The complainant already has one connection in his name bearing consumer No. Y6/53 and now he has applied for additional electric connection for his newly constructed house, presently resided by his daughter-in-law Smti. Anju Pal with his grandson Shri. Sorojit Pal. The Respondent/Licensee (ED) had rejected the additional electric connection application due to non-submission of registered Sale Deed by the complainant.

The Forum observe that the complainant Shri. Naresh Chandra Paul had constructed a new house in which his daughter-in-law and grandson lives. As per the complainant's statement his daughter-in-law is the actual occupier and is in '**Settled Possession**' of the said premises.

In this pretext, it is also opt to quote the observation and explanation given be Hon'ble High Court, Calcutta which follows:

*"The question of 'Settled Possession' was answered by the Hon'ble Bench of Calcutta High Court comprising of Justice Jainarayan Patel, Justice Bhaskar Bhattacharya and Justice Pinaki Chandra Ghose in their Order dated 11.02.2011 in various analogues writ petitions. Quoting observations of the Hon'ble Supreme Court in the case of Rama Gouda (D) by LRs V.M. Varadappa Naidu (D) by LRs and another reported in AIR 2004 SC 4609. "It is thus clear that so far Indian Law is concerned the person in peaceful possession is entitled to retain his possession and in order to protect such possession he may even use reasonable force to keep out a trespasser. A rightful owner who has been wrongfully dispossessed land may retake possession if he can do so peacefully and without the use of unreasonable force. If the trespasser is in settled possession of the property belonging to the rightful owner, the rightful owner shall have to take recourse to law .... It is the settled possession of a person without title which would entitle him to protect his possession even against the true owner". On the basis of this observation the Calcutta HC said that "According to the law in India, a person in settled possession of immovable property cannot be dispossessed otherwise than by due process of law and such a person in settled possession, although the commencement of such possession was unlawful can*



**restrain even the lawful owner from disturbing his settled possession otherwise than in due process of law.**

Section 43 of the Indian Electricity Act 2003 is read as, **'Every distribution Licensee, shall, on an application by the owner or occupier of any premises, give supply of such electricity of such premises within one month after the receipt of the application of such supply'**.

The HC Order has observed that in the Electricity Act 2003 there is no definition of the word **'occupier'**. But the works of Licensee Rule 2006 framed under the aforesaid Act came to force in the year 2006 and according to the definition of 'occupier' as provided in Rule 2(b) unless the context otherwise requires the **occupier of any building or land** means a person in lawful occupation of that building or land. It quoted the case of Puran Singh and Ors Vs. The State of Punjab (1975) 4 SCC 518 in which the Court clarified that it is difficult to lay down any hard and fast rule as to when the possession of a trespasser can mature into settled possession. The **'settled possession'** must be (i) effective (ii) undisturbed (iii) to the knowledge of the owner or without any attempt and concealment by the trespasser. The Court laid down certain tests for adoption as a working rule for determining settled possession in AIR 1968 SC 702, AIR 1975 SC 1674, AIR 1977, SC 619. It suggested:

- That the trespasser must be in actual physical possession of the property over a sufficiently long period;
- That the possession must be to the knowledge (either express or implied) of the owner or without attempt at concealment by the trespasser and which contains an element of animus possidendi. The nature of possession of the trespasser would however, be a matter to be decided on the facts and circumstances of each case.
- The process of dispossession of the true owner by the trespasser must be complete and final and must be acquiesced to by the true owner.

The learned judges in their Order dated 11.02.2011 quoting Supreme Court which introduced the definition of the word **'occupier'** as lawful occupier without defining the word **'lawful'** therein have said *"Therefore, in the absence of any definition of the word 'lawful' in the Rules of 2006, we should apply the principle of 'settled possession' laid down by the Supreme Court to the phrase 'lawful occupier' appearing in the Rules for implementation of the object of the Electricity Act 2003 to construe the same as a person in 'settled possession' whose possession can be defended against the threat of dispossession otherwise than **due process of law even by the lawful owner.**"*

**We therefore hold that a person in settled possession of a property is free to apply for supply of Electricity without the consent of the owner of the same and is entitled to get electricity and enjoy the same until he is evicted by due process of law".**



Further, the following provisions have been provided in the **Supply Code Regulation-2018**, as notified by the JERC regarding grant of a New Electricity Connection: -

**Procedure for providing New Electricity Connection**

**Application Form**

“5.24 The applicant shall apply for release of new connection in the following format as given in the Annexure to this Supply Code, 2018:

*Application form for release of new connection (Low Tension) – Annexure- I*

*Application form for release of new connection (High Tension/ Extra High Tension) - Annexure –II*

*Format for declaration/undertaking to be signed at the time of receiving electricity supply - Annexure –III*

5.25 Application forms shall be available at the local office of the Licensee free of cost. The Licensee shall also put up all application forms on its website for free download. Legible photocopies of a blank form may be made by the applicant, which shall be accepted by the Licensee. The Licensee shall clearly display on its website; the address and telephone numbers of offices where filled-up application form can be submitted. The Licensee shall also display in each office, the address and telephone numbers of offices in the respective area of supply where filled-up application form pertaining to that particular area can be submitted. Any assistance or information required in filling up the form shall be provided to applicants at the local office of the Licensee.

5.26 The Licensee shall also provide new avenues for applying for new connection or modification in existing connection through website, call centres, etc., which minimize the applicant’s interface with the utility during the process.

5.27 Application forms for new connection must be accompanied with a photograph of the applicant, identity proof of the applicant, proof of applicant’s ownership or occupancy over the premises for which new connection is being sought, proof of applicant’s current address, and in specific cases, certain other documents as detailed in Regulation 5.29- 5.34 of this Supply Code, 2018.

5.28 Non-Refundable Registration-cum-processing fees of Rs. 20,000/- for HT and Rs. 1,00,000/- for EHT shall be levied while applying for new connection. These charges shall be adjusted by the Licensee while issuing the demand note.

5.29 Any of the following documents shall be considered as acceptable proof of identity:

*If the applicant is an individual:*

*(1) Electoral Identity Card*

*(2) Passport*

*(3) Driving Licence*



(4) Photo Identity card issued by Government agency

(5) PAN Card

(6) Photo Certificate from village Pradhan or any village level Government functionary like Patwari/ Lekhpal/ village level worker/ village chowkidar/ Primary school teacher/ in-charge of primary health centre, etc.

(7) Aadhaar Card.

5.30 Any of the following documents shall be considered as acceptable proof of ownership or occupancy of premises:

(1) Copy of the registered sale deed or lease deed or rent agreement and in the case of agricultural connections, a copy of khasra / khatauni / khata nakal;

(2) Registered General Power of Attorney;

(3) Municipal/Panchayat tax receipt or Demand notice or any other related document;

(4) Letter of allotment;

(5) Copy of the house registration certificate issued by the Panchayat/ownership certificate issued by Revenue Authorities;

(6) Any other ownership related document issued by local Government Authority.

(7) An applicant who is not an owner but an **occupier** of the premises shall, along with any one of the documents listed at (1) to (6) above, also furnish a No Objection Certificate from owner of the premises:

**Provided that where an applicant, who is lawful occupier of the premises, is a tenant or a leaseholder and is unable to produce the No Objection Certificate from owner for obtaining a connection, a separate Indemnity Bond shall be executed in favour of the Distribution Licensee in the form prescribed by the Distribution Licensee.**

(8) For bonafide consumers residing in JJ clusters or in other areas with no specific municipal address, **the Licensee may accept either ration card or electoral identity card mandatorily having the same address as a proof of occupancy of the premises only for the purpose of releasing electricity connection and not for any other purpose:**

**Provided further that the electricity bill shall be only for electricity supply to the premises occupied by the consumer and shall not be treated as having rights or title over the premises.**

5.31 All communications shall be sent at the address where the connection has been released. However, till release of connection, communication may be sent at the address provided by the applicant for this purpose.

5.32 In case of a partnership firm - The applicant shall furnish the partnership deed and an authorization in the name of the applicant for signing the requisition form and agreement.

5.33 In case of Public and/or Private Limited Company - The applicant shall furnish the Certificate of Incorporation, Memorandum and Articles of Association and Board Resolution for authorization in the name of the applicant for signing the requisition form and agreement.



5.34 Other documents applicable only for select consumer categories:

(1) Industrial consumers: Valid Industrial Licence, if applicable, along with approval of the use of land for non-agricultural purposes (Not required for industrial consumers in notified Industrial Areas).

(2) Agricultural consumers: No Objection Certificate from competent government authority;

(3) Non-Domestic Khokhas and Temporary Structure: No Objection Certificate for khokha or temporary structure from the Nagar Nigam / Nagar Palika / Nagar Panchayat / Gram Sabha / Gram Panchayat / Land Development Authority / Land Owning Agency.

(4) Where new industrial connection or addition to the load of existing connection needs clearance from pollution or environmental angle, the applicant shall submit "no objection certificate" from the competent authority to the Distribution Licensee".

This Forum has come to the conclusion that the actual '**occupier**' of the said premises is Smti. Anju Pal who is the daughter-in-law of the complainant. As per the statement of the Respondent/Licensee (ED), Smti. Anju Pal is living with her son and she is in '**settle possession**'. If the actual '**occupier**' has applied for new electric connection, the same should be provided as per **JERC Regulation No. 23/2018 (Electricity Supply Code 2018) and JERC Regulation No. 06/2009 (SOP)** as in this case occupier of the premises is in '**settle possession**'.

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. 277 is hereby closed with specific direction to the complainant and the Respondent/Licensee (ED).
2. The Respondent/Licensee (ED) is directed to submit para-wise comments/reply in the affidavit form from the authorized person (Nodal Officer) before Hearing of three (3) working days with endorsed to the complainant in future complaints, which has not been done in this instant case.
3. The complainant is directed to apply new electricity connection **through online or offline** in the name of her daughter-in-law Smti. Anju Pal, who is the actual '**occupier**' and is in '**settled possession**' of the said premises with supporting documents *i.e.* **Aadhaar, Resident Certificate, Ration Card etc.**





4. The Respondent/Licensee(ED) is directed to release the new electric connection after receiving application on the above said Sl. No. 2 of Smti. Anju Pal, and follow all codal formalities as per **JERC Regulation No. 23/2018 (Electricity Supply Code 2018) and JERC No. 6/2009 (SOP)** as in the case of '**occupier**' of the premises is in '**settle possession**'.
5. The complainant is directed to cooperate with the Respondent/Licensee (ED) whatsoever and complete all codal formalities at the earliest to release electric connection by the Respondent/Licensee (ED) on time.

***Further, it is made clear that release of electric connection to the applicant will not confer any right or equity in favour of the trespasser / encroachers in the occupation to defeat the title of the lawful owner and shall not be treated as having rights or title over the premises.***

6. 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.
7. The Respondent/Licensee (ED) is directed to submit its action taken report to this Forum within 15 days from the date of receipt of the Order as per JERC provision.
8. 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**, 3<sup>rd</sup> 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 (NAD), Nodal Officer (CGRF), Assistant Engineer(IT), Assistant Engineer (Diglipur), Electricity Department, Complainant and the Electricity Ombudsman, JERC for the State of Goa & UTs, Gurugram, (Haryana).



**(Biji Thomas)**  
**Independent Member**  
**Electricity CGRF**



**(R. Ravichandar)**  
**Chairman**  
**Electricity CGRF**

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