

**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. P. Mujibur Rehman, S/o Shri. P. Hassainar, R/o House No. C-50,  
Opposite Patwarkana Malapuram, Mannarghat Panchayat, South Andaman  
(Consumer No. Q/257 (Domestic).

.....Complainant

**Versus**

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

.....Respondent

**Complaint No.** : ANI/CGRF/289/23-24/21 dated 28/07/2023  
**Complaint** : Providing New Connection (Domestic)  
**Date of Hearing** : 17/08/2023  
**Date of Order** : 18/08/2023

**ORDER**

**Background**

Shri. P. Mujibur Rehman, S/o Shri. P. Hassainar, R/o House No. C-50,  
Opposite Patwarkana Malapuram, Mannarghat Panchayat, South Andaman filed a  
complaint vide R.D. No. 123 dated 28/07/2023 for providing new electric  
connection (Domestic).

The complaint was forwarded on 31/07/2023 to the Assistant Engineer  
(Workshop), Nodal Officer (CGRF), Executive Engineer(SAD), Assistant  
Engineer (Ferrargunj), Electricity Department who represents the Respondent/  
Licensee(ED) for submitting reply/comments and for attending the Hearing  
fixed on 17/08/2023 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 17/08/2023 at 11.30 a.m.

The Respondent on behalf of Licensee (ED) i.e. Assistant  
Engineer(Ferrargunj), Electricity Department filed his letter No. EL/AE/FG/3-  
20/2023-24/171 dated 11/08/2023 submitted reply/ comments on behalf of  
the Licensee/Respondent (ED), which was received by the Forum on  
11/08/2023, which is kept in case file (*Exbt.-1*).



**Hearing on 17/08/2023**

The Hearing was held on 17/08/2023 in the Hearing Hall, Electricity CGRF at 11:30 a.m. The following were present: -

- (i) Shri. P. Mujibur Rehman, Complainant.
- (ii) Shri. Suresh Kumar (Workshop), Nodal Officer (CGRF) - **Absent**.
- (iii) Shri. Rajesh Singh, AE-V, Elect. Dept., Ferrargunj.
- (iv) Shri. Cheran Jeevan Ram, JE, Elect. Dept., W/Gunj.

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

The Assistant Engineer (Ferrargunj) on behalf of the Respondent/Licensee(ED) in his written submission letter dated 11/08/2023 has stated that: -

1. Shri. P. Hassainar was a consumer of this department bearing consumer No. Q/257 at Malappuram, Mannarghat Village under the jurisdiction of Wimberlygunj Site Office.
2. A request for temporary disconnection of the electric connection of the consumer under consideration i.e. Q/257 was submitted to the Assistant Engineer, Electricity Department, Ferrargunj Sub-Division vide A.E (F/Gunj) R.D No. 1768 dt. 15/11/2022 (Copy enclosed).
3. Following which the said connection was temporarily disconnected on 22/11/2023.
4. As per JERC guideline 9.13 a temporary disconnection could be allowed for a maximum period of Six Months. Hence, a Notice was served to Shri. P. Hassainar to in order to apply for reconnection within 15 days (Notice enclosed).
5. No further application was received from the party seeking the reconnection of the same. Therefore, the electric connection bearing Consumer No. Q/257 was permanently dismantled on 06/07/2023 as per the letter received from J.E (W/Gunj) vide letter no. EL/JE/WG/3-21/2023-24/114 dt. 03/08/2023 (letter enclosed).
6. Following which an online application for new connection was filed by Shri. P. Mujibur Rehman, S/o Shri. P. Hassainar vide application no. 15390 dt. 11/07/2023.
7. The same was rejected due to non-submission of NOC from Shri. P. Hassainar who owns the land on which the new electric connection is applied for.

The Respondent/Licensee (ED) has submitted photocopies of enclosures as above stated, which is kept in the case file (**Exbt.-2**).



completion of all codal formalities as per **JERC Regulation No. 23/2018 (Electricity Supply Code 2018)** and **JERC Regulation No. 6/2009 (SOP)**.

**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.**

Hence,

**It is Ordered:**

After detailed deliberations, submissions, site inspection, discussion, and on the observations so reached, the following is passed: -

1. The complaint No. 289 is hereby closed with specific direction to the complainant and the Respondent/Licensee (ED) without any merits.
2. The complainant is directed to complete the construction work with electrical wiring and accordingly he may approach to the Respondent/Licensee (ED) on the ground of '**occupier**' of the premises, who is in '**settle possession**' with supporting documents like Aadhaar Card, Ration Card, Residential Certificate, NOC/Indemnity Bond etc.

Further, if non-submission of NOC from the owner of the landed property, the complainant should be submit as **Indemnity Bond** with the Respondent/Licensee (ED) as per JERC Regulation and his connection will be treated as temporarily. After submission of NOC from the owner his electric connection will be treated as permanent or full fledge or until he is evicted from the said premises till then he will enjoy electricity connection.

**Furthermore, 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.**

3. The Respondent/Licensee (ED) is directed to accept the electric connection application with relevant documents as an **occupier** and is in **settled possession** as stated above in Sl. No. 2, and after proper inspection/investigation with all codal formalities of the said premises as per **JERC Regulation No. 23/2018 (Electricity Supply Code 2018)** and **JERC Regulation No. 6/2009 (SOP)**, the electricity supply should be released.



**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 as on date the complainant Shri. P. Mujibur Rehman is not residing in the said premises wherein construction works is under process. After completion of construction work with electric wiring, the complainant may approach to the Respondent/ Licensee (ED) on the ground of '**occupier**' and is in '**settle possession**' of the said premises with relevant documents and accordingly, the Respondent/Licensee (ED) should be provide electric connection after



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:



- 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".**

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

may approach to the Respondent/Licensee (ED) for providing electric connection as per submitted documents in the Forum.

In this pretext, it is also apt to quote the observation and explanation given by 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:

### **Submission of the Complainant**

The complainant Shri. P. Mujibur Rehman stated in his oral submission that the construction work has not been completed yet and he is presently living in a rented house. Further he said that without electricity connection the construction work is hampered and requested the Forum to provide electric connection at the earliest.

### **Submission of the Respondent (Licensee)**

The Assistant Engineer (Workshop), Nodal Officer (CGRF) is absent. The Assistant Engineer (Ferrargunj), Elect. Dept. has stated on behalf of Respondent/Licensee (ED) that the construction work has not yet been completed and also he is not residing in the said premises. Therefore, the application has been rejected for completion of codal formalities.

Further, he added that after completion of the construction work, the complainant should be informed at the site office of the Electricity Department and accordingly we will inspect the said premises regarding '**settled possession**' and simultaneously we will release the electric connection after completion of all codal formalities as per JERC Regulation.

### **Forum's Observation**

The Forum visited the site for inspection on 28/07/2023 after receiving the complaint and found that the construction work is under process. The complainant Shri. P. Mujibur Rehman was earlier enjoy a temporary electric connection in his father's name i.e. Shri. P. Hassainar bearing Consumer No. Q/257. The complainant's father Shri. P. Hassainar is one of the joint owners of the said landed property bearing survey No. 29 situated at Mannarghat village, South Andaman. Due to family disputes, complainant's father has disconnected the temporary connection on 22/11/2023 bearing consumer No. Q/257 in the complainant premises.

The Forum further observed that the said complainant has cleared all pending electricity bill against Consumer No. Q/257 and accordingly, he applied for new connection single phase (Domestic) through online vide application No. 15390 dated 11/07/2023 with relevant documents. The complainant submitted photocopies of Ration Card as Address Proof, Aadhaar Card of all family members as ID proof including his mother, which is kept in the case file (**Exbt.-3**).

The Forum observe that the complainant Shri. P. Mujibur Rehman is not residing in the said premises and the construction work is going on. Hence, he is not an actual '**occupier**' or in '**settled possession**' of the said premises as on date. There is a possibility that the complainant may reside in the said premises after the completion of the construction work. If he is living with his family as an '**occupier**' and is in '**settled possession**' in future, he

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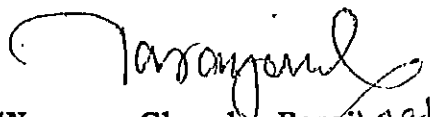
4. The Respondent/Licensee (ED) is directed to accept '**Indemnity Bond**' on behalf of the non-submission of the NOC from the owner of the landed property, and his connection will be treated as temporarily. After submission of NOC from the owner, his electric connection will be treated as permanent or full fledge or until he is evicted from the said premises till then he will enjoy electricity connection as per **JERC Regulation No. 23/2018 (Electricity Supply Code 2018)**.
5. 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.

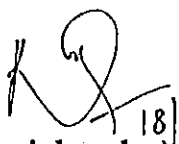
"The complainant, if aggrieved, by non-redressal of his / her grievance by the Forum or non-implementation of CGRF order by the Licensee, may make an Appeal prescribed Annexure-IV, to the **Electricity Ombudsman, Joint Electricity Regulatory Commission for the State of Goa and UTs**, 3<sup>rd</sup> Floor, 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 (SAD), Assistant Engineer-V, 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) 18/8/23  
Member (Licensee)  
Electricity CGRF

  
(R. Ravichandar) 18/8/23  
Chairman  
Electricity CGRF

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