

BEFORE THE ELECTRICITY OMBUDSMAN
(For the State of Goa and Union Territories)
Under Section 42 (6) of the Electricity Act, 2003
3rd Floor, Plot No. 55-56, Udyog Vihar - Phase IV, Sector 18
Gurugram (Haryana) 122015,
Email ID: ombudsman.jercuts@gov.in
Phone No.:0124-4684708

Case No 226 of 2024

**In the matter of Shri Dhananjay Gadekar Versus The Chief Electrical Engineer,
Electricity Department, Goa.**

Appeal No-226 of 2024

**Date of Video Conferencing: 07.11.2024,
18.11.2024 and 04.12.2024.**

Date of Order: XX.12.2024

Shri Dhananjay Gadekar,
H. No 357, OSHALBAG,
DHARGAL, PERNEM,
NORTH GOA

.... Appellant

Versus

The Chief Electrical Engineer,
Electricity Department, Govt. of Goa,
Panaji, North Goa
Executive Engineer Division XVII, Mapusa B.

.... Respondent 1

Executive Engineer Division XVII,
Electricity Department, Mapusa B,
Goa

.... Respondent 2

Parties present:

Appellant(s)

Ld. Adv Mr. Sanket Mahambrey for
Appellant

Respondent(s)

Mr. Ramchandra Mudras, Executive Engineer, Division XVII,
Mr. Prabhakar Assistant Engineer S/D-I,
Mr. Mukesh Parsekar Jr Engr.

ORDER

The Appellant has preferred an Appeal No-226/2024 against CGRF order in Complaint No. 32/2024/162 dated 23.09.2024 filed by Shri Dhananjay Gadekar, H. No 357, OSHALBAG, DHARGAL, PERNEM, NORTH GOA. The Appeal was admitted on 24.10.2024, as Appeal No.226 of 2024. Copy of the Appeal as received, was forwarded to the Respondents with a direction to submit their remarks/ counter reply on each of the points.

The para wise comments have been filed by Respondent No 2 i.e. Assistant Engineer Sub Division -I of Division No XVII.

Brief Submissions of the Appellant:

The Appellant seeks the disconnection of an electricity connection obtained by Mr.. Nitin Balkrishna Gadekar, a resident of Thane, Maharashtra, who allegedly misrepresented facts to the Electricity Department. The Appellant asserts that Mr. Nitin Balkrishna Gadekar concealed critical information and misled the department to obtain the connection.

The Appellant is the lawful owner of House No. 357, located at Survey No. 274/9, Oshalbag, Pernem, Goa, where he resides with his family. No one else, including Mr. Nitin Balkrishna Gadekar, resides in this house.

Mr. Nitin Balkrishna Gadekar resides in Mumbai and has never lived in the Oshalbag property. He has constructed a new, unauthorized house approximately 15-20 meters away from the Appellant's property. Mr. Nitin Balkrishna Gadekar misrepresented this new construction as part of the original House No. 357 to obtain an electricity connection.

Mr. Nitin Balkrishna Gadekar applied for an electricity connection under the guise of residing in House No. 357-B, a bifurcated part of the original House No. 357. However, in a previous civil suit (RCS No. 35/2016), Mr. Nitin Balkrishna Gadekar admitted that the house in question was a newly constructed property, not part of the original structure. This admission supports the Appellant's claim.



Under the Panchayat Raj Act, a house can be bifurcated into separate units for families living in the same household. However, Mr. Nitin Balkrishna Gadekar falsely represented that he was residing in House No. 357, misleading the Electricity Department into granting a connection to a new, unauthorized house.

While the electricity connection is a basic necessity, it is not an absolute right and is subject to legal compliance. Mr. Nitin Balkrishna Gadekar's act of obtaining the connection through deceit and misrepresentation warrants disconnection.

Mr. Nitin Balkrishna Gadekar's application to the Electricity Department and his affidavit in the civil suit (RCS/35/2016) contradict each other, further reinforcing the Appellant's case. Mr. Nitin Balkrishna Gadekar claimed to reside in House No. 357-B in the electricity application but admitted in court that he lived in a different structure.

The judgments cited by the Respondent are not applicable to the facts of this case, as they pertain to different circumstances. The Appellant does not oppose the grant of a new electricity connection to Mr. Nitin Balkrishna Gadekar for his new house, provided the legal procedures are followed. However, the Appellant contends that the current electricity connection, issued under House No. 357-B, is invalid, as it was never intended for the new construction.

The Appellant highlights that the order of the Hon'ble High Court (dated 06/10/2023) was pronounced after Mr. Nitin Balkrishna Gadekar obtained the electricity connection (dated 13/11/2023) as such it becomes evident that this aspect was never into consideration before the Hon'ble High Court and hence the order of the Hon'ble High Court would be of no benefit to Mr. Nitin Balkrishna Gadekar in the adjudication and determination of the present proceedings.

The Respondent's submission that the old connection was disconnected and a new one issued further corroborates the Appellant's claims. The date of energization of the old connection (03/07/1998) shows a clear disconnect with the new construction, which was built after 2015.

The Appellant produces Mr. Nitin Balkrishna Gadekar's Aadhar card, which lists his address as Thane, Maharashtra, not Goa, supporting the claim of misrepresentation.

The Appellant requests the immediate disconnection of the electricity connection obtained by Mr. Nitin Balkrishna Gadekar based on deceit, misrepresentation, and suppression of facts. Additionally, the Appellant seeks to recover the costs of disconnection from Mr. Nitin Balkrishna Gadekar.



Brief Submissions by the Respondent:

With regard to the statement made, the Hon'ble CGRF, Goa has dismissed the case of the Appellant on 23/09/2024. A copy of the order is placed on record. Therefore, Shri Nitin Balkrishna Gadekar has obtained the electricity connection to his house after submitting the proper documents and completing the required departmental formalities.

The issue of legality of the house in question is outside the jurisdiction of this office. The allocation of house numbers and decisions regarding house legality fall under the purview of the concerned Village Panchayat. It is submitted that Shri Nitin Balkrishna Gadekar has not misled the Electricity Department, and he availed the electricity connection after completing all necessary formalities.

The copies of the documents submitted by Shri Nitin Balkrishna Gadekar while obtaining the electricity connection is attached at pages 1/c to 30/c.

Grounds for Dismissing the Appellant's Representation:

Shri Nitin Balkrishna Gadekar has lawfully obtained the electricity connection after completing all required departmental formalities. The provision of electricity is a basic necessity and a fundamental right for every individual, subject to legal compliance.

The Appellant is seeking the disconnection of the electricity connection issued to a third party, as per the order of the Hon'ble CGRF placed at page 32/e, point no. 6. The Appellant's request lacks merit as the connection was granted after proper documentation and compliance with the relevant procedures. The judgment of the Hon'ble Court (placed at pages 15/c to 22/c, point no. 7) clearly affirms that Shri Nitin Balkrishna Gadekar is the occupier of the premises in question. Additionally, the House Tax receipt issued by the concerned Village Panchayat (page 4/c) and the documents at pages 18/c and 16/c point to the legitimacy of Shri Gadekar's occupation and use of the house.

As such the Appellant's request for disconnection of the electricity connection is without merit. Shri Nitin Balkrishna Gadekar has complied with all necessary formalities and legal requirements in obtaining the connection, and the Respondent prays that the Appellant's application be dismissed.

Proceedings

The Hearing in this matter has been conducted through video conferencing on 7.11.2024, 18.11.2024 and 4.12.2024.

Mr. Sanket Mahambrey Ld Advocate representing the Appellant has submitted that he had filed the present Appeal to seek disconnection of electricity connection installed in the name of Mr. Nitin Balkrishna Gadekar for his premise 357 B, OSHALBAG, DHARGAL, PERNEM, NORTH GOA. He has further

submitted that Mr. Dhananjay Gadekar owns a piece of land measuring 900 Sq Mts. In which Mr. Nitin Balkrishna Gadekar has constructed a building under the name & address as 357B, Oshalbag, Dhargal, Parnem, Goa and obtained an electricity connection to which the Appellant has raised objections. It has further been submitted that Mr. Nitin Balkrishna Gadekar has committed fraud by claiming the House No 357 B as the same has not been allotted by Municipality of Goa. Ld. Adv Mr. Sanket Mahambrey has also agreed to the fact that a temporary injunction has been granted in favour of Mr. Nitin Balkrishna Gadekar by the Hon'ble High Court of Bombay at Goa in Writ Petition 875/2019 and till date there is no stay to the impugned order.

The Respondent Electricity Department Goa submitted that the new connection has been granted in the name of Mr. Nitin Balkrishna Gadekar only after getting all the commercial formalities completed. Further, Mr. Nitin Gadekar had an electricity connection vide connection No 60006277879 which was installed in the year July, 1998 and disconnected in the year November 2020 at the same address.

Mr. Dhananjay Gadekar owns a separate building under the name & address as 357, Oshalbag, Dhargal, Parnem, Goa which is no way connected to the building owned by Mr. Nitin Balkrishna Gadekar. The Hon'ble High Court of Bombay at Goa in its order dated 6.10.2023 has allowed the use of building No 357 B, by Mr. Nitin Balkrishna Gadekar.

The Assistant Engineer Elect. Sub Division-I of Division 17 has submitted the records of Old electricity connection which was disconnected in the year October 2020.

Ld Adv. Mr. Sanket Mahambrey has submitted his written arguments on 28.11.2024. On 4.12.2024 neither the Appellant nor the Ld. Adv Mr. Sanket Mahambrey attended the hearing whereas the Electricity Department is represented by Executive Engineer, Assistant Engineer and Jr Engineer.

Findings

I have carefully perused the records, including the written submissions filed by the complainant and the Respondent. I have given due consideration to the arguments advanced by both the parties involved.

The basic issue raised in the present appeal are as under:

- A. Whether the Appellant (Mr. Dhananjay Gadekar) can file a complaint seeking disconnection of an electricity connection granted in the name of a Third party (Mr. Nitin Balkrishna Gadekar).

The Appellant in the present appeal is not a "consumer" in relation to the licensee and has not sought any services from the licensee (Electricity Department Goa). As per I.E Act 2003

"consumer" means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity

to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be;

As per CGRF and Ombudsman Regulations 2024

Complaint means, and includes

- (i) A grievance, related to any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which has been undertaken to be performed by a Distribution Licensee ("Licensee") in pursuance of a license, contract, agreement or under the JERC Electricity Supply Code 2018 as amended from time to time or in relation to the Distribution Performance Standards of the licensees, as specified by the Commission, and includes billing disputes of any nature and matters related to the safety of the distribution system having potential of endangering life or property; or a dissatisfaction of a Consumer arising out of failure of the licensee to register or redress a Complaint and shall include any dispute between the Consumer and the Licensee with regard to any complaint or with regard to any action taken by the licensee in relation to or pursuant to a complaint filed by the affected person.*
- (ii) a distribution licensee has charged or recovered for electricity services mentioned in the grievance a price or charge in excess of the price or charge fixed by the Commission;*
- (iii) electricity services which are hazardous to life and safety when availed, are being offered for use to the public in contravention of the provisions of any law for the time being in force;*
- (iv) breach of any obligation by the distribution licensee which adversely affects any consumer;*

As such the Appellant in the present case does not falls within the ambit of Consumer or complainant as he is not aggrieved related to any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which has been undertaken to be performed by a Distribution Licensee ("Licensee") in pursuance of a license, contract, agreement or under the JERC Electricity Supply Code 2018.

- B. Whether the connection granted in the name of Mr. Nitin Balkrishna Gadekar is a valid connection or not.

The electricity connection granted by the Electricity Department to Mr. Nitin Balkrishna Gadekar was issued in accordance with Regulation 5.30 of the JERC Supply Code 2018. All necessary



commercial formalities for obtaining the new connection were duly completed by Mr. Nitin Balkrishna Gadekar.

It is pertinent to note that Mr. Nitin Balkrishna Gadekar previously held an electricity connection in his name since 1998, which was disconnected in October 2020 following the settlement of the final bill. As this connection remained dormant for nearly three years, Mr. Gadekar applied for and was provided with a new electricity connection in November 2023, in compliance with the provisions of the JERC Supply Code 2018.

C. Whether Mr. Nitin Balkrishna Gadekar committed fraud or misrepresented material facts to the licensee by claiming that his alleged illegal structure bears the house number "357-B."

I have reviewed the documents submitted by Mr. Nitin Balkrishna Gadekar, as well as those produced by the complainant. Among these is a house tax receipt dated 10.11.2023, issued by the Village Panchayat of Dhargalim in the name of "Nitin Balkrishna Gadekar" for "House No. 357-B, Oshalbag." Besides this, the Old record of electricity connection in the name of Mr. Nitin Balkrishna Gadekar also have the same address as 357 B, Oshalbag, Dhargal, Parnem, Goa. Since the old connection was installed in July 1998 and Mr. Dhanajay Gadekar has never raised any objections to it till such time he approached CGRF Goa in case No 32/2024/162. In the light of the documents on record, the contention that House No. 357-B is non-existent or pertains to a different structure appears to be unfounded. Furthermore, the issue of legality of the house in question is concerned, the same is outside the jurisdiction of Ombudsman.

In view of the foregoing,

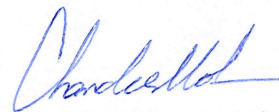
I do not find any merits in the appeal filed by the Appellant as such the same is dismissed.

The orders passed by the Ld. CGRF Goa is upheld.

A certified copy of this order shall be provided to the Learned CGRF, Puducherry.

A certified copy of this order shall also be provided to the Executive Engineer, Division 17, Electricity Department, Goa.

The appeal is hereby disposed of as outlined above.


(C M SHARMA)

Electricity Ombudsman

For Goa & UTs (except Delhi)

Dated: 11.12.2024