

**GUJARAT ELECTRICITY REGULATORY COMMISSION
BEFORE THE ELECTRICITY OMBUDSMAN, GUJARAT STATE
Polytechnic Compound, Barrack No.3, Ambawadi,
Ahmedabad-380015**

CASE NO. 21/2017

Appellant: Shri Amit Harivadan Parikh
42, Surbhit Vatika, Behind Apple wood township
Shantipura Char Rasta, Shela, Ahmedabad

Represented by: Shri Amitbhai H. Parikh
Shri Vijaybhai B. Nayaka, Learned Advocate
V/s.

Respondent-1: Deputy Engineer,
Uttar Gujarat Vij Company Limited
Sub-Division Office, Bareja. Ta:Dasroi. Dist.Ahmedabad

Represented by: Shri P.K.Gandhi, DE, UGVCL, Bareja S/dn.

Respondent-2: Shri Shreyank S. Dani
27/A, Nutan Society, Paldi, Ahmedabad-380006.

Represented by: Shri Shreyank S. Dani

:::PROCEEDINGS:::

- 1.0.** The Appellant had submitted representation aggrieving with the order 5737 dated 13.06.2016 passed by the Consumer Grievances Redressal Forum, UGVCL, Sabarmati, in case No. UG-01-009-2016-17. The representation was registered on admission stage at this office as Case No.21/2017. The admission stage hearing of this case was kept on 23.03.2017. The next hearing was kept on 06.04.2017, but Appellant had remained absent. The next hearing was kept on 27.04.2017.
- 2.0.** Appellant has represented the case as under.
 - 2.1.** Appellant is an absolute owner of Block No. 633 situated at Aslali, Taluka Dasroi, Ahmedabad-14. On 17.06.2015 Appellant entered

into a contract with (1) M/s. Afak Builders Pvt. Ltd., to construct two godowns in his land. On getting possession of the same, Appellant is an absolute owner of the said two godowns.

- 2.2. Appellant has submitted necessary application before Respondent No.1 for getting new electric connection. Appellant has submitted assessment copy/Akarani Patra for two assessment, No.4877 and 4878, and other necessary documents on 06.02.2016. Respondent No.1 addressed a letter dated 26.02.2016 stating that someone has already applied to obtain electric connection in both the godowns. It was also stated that person who has applied for electric connection has objected against giving the electric connection to Appellant. It is stated that upon inquiry it was found that Respondent No.2 had objected against giving connection to Appellant.
- 2.3. Application of Appellant to obtain electric connection came to be disposed of by Respondent No.1 stating that till the dispute regarding two godowns is not adjudicated the connection cannot be given to Appellant. Respondent No.1 has provided evidence that Respondent No.2 has objected in giving electric connection to Appellant as per the request by Appellant.
- 2.4. CGRF has passed an order dated 13.06.2016 rejecting the complaint of Appellant which was received by Appellant on 16.06.2016.
- 2.5. Appellant has submitted that Respondent No.1 has rejected the application of Appellant on the ground that Civil Suit No.250/2016 and 251/2016 are pending in Civil Court, Ahmedbad Rural, instituted by Respondent No.2. Such ground is not tenable. Respondent No.1 has also erroneously held that due to pendency of the above civil suits filed by Respondent No.2, it has no jurisdiction as per Section 2.30(01) of Notification No.2/2011.
- 2.6. It is submitted that Respondent No.1 ought to have considered that electric connection asked by Appellant in two godowns constructed in Block No.633, is an absolute ownership of appellant while Respondent No.2 is seeking electric connection on his land bearing Block No.634.

- 2.7. It is submitted that Respondent No.1 has not examined the facts that Block No.633 of Appellant and Block No.634 of Respondent No.2 are adjacent to each other. Respondent No.2 has no right to object against availing electric connection in Block No.633 of Appellant. It seems that the person who has constructed two godowns for Appellant has also constructed 8 No. of godowns in land of Respondent No.2. Respondent No.2 is now taking an advantage of such facts by misleading and misguiding Respondent No.1. The Civil Court has not granted any interim Stay in favour of Respondent No.2 against use of godowns by Appellant.
- 2.8. It is submitted that Respondent No.2 wants to create evidence in civil proceedings pending before the Court. Respondent No.1 ought to have held that Appellant is a consumer in view of Section 2(15) of Electricity Act,2003, therefore Respondent No.2 has no right to file any objection before the Forum. It is also submitted that Respondent No.1 has clearly erred in not holding that the present proceedings pending before Civil Court are not same. Therefore, subject matter in both are different.
- 2.9. It is submitted that the main object of the Act is to provide the electric supply. To have an electric supply is essential to use the godowns for business purpose. Appellant is an owner of Block No.633 while the Respondent No.2 is an illegal occupier-owner of Block No.634. Therefore, the present appeal is filed against the Forum order to get electric connection.
- 2.10. Forum has failed to appreciate that the Appellant is an aggrieved person. Therefore, Forum order is bad in law and resulting into failure of justice.
- 2.11. Appellant has requested to condone the delay of about seven months as he was sick and under medical treatment.

2.12. Appellant has prayed as under:

- (1) To admit and allow the present appeal.
- (2) To quash and set aside the Forum order.
- (3) To direct Respondent No.1 to install the meter and to give electric connection in the interest of justice.

3.0. Respondent No.1. has represented the case as under.

3.1. It is submitted that appellant has applied for electric connection for godown No.9 and 10 situated at Block No.633 at village Aslali and submitted assessment Receipt No.4877 and 4878 dated 22.01.2016 along with other documents and had approached office of Respondent No.1 on 06.02.2016. The site for new connection was surveyed by Respondent No.1 and it was found that Respondent No.2 had applied for electric connection for godown No. 9 and 10 in Block No.634 at Aslali and submitted assessment copy and other documents on 05.08.2015 and paid the estimated amount on 11.08.2015. Respondent No.2 had applied for 10 No. of electric connections for godown No.1 to 10 and out of that electric connections for godown No.1 to 8 were released by Respondent No.1 as per norms.

As per the request of Respondent No.2 vide letter dated 28.01.2016, electric connections for godown No.9 and 10 were not released. It is stated that the application was made by Appellant for getting connections for godown No. 9 and 10 and as per the survey carried out the premises of godown No.9 and 10 was found same as that of premises of godown No. 9 and 10 of Respondent No.2.

3.2. Respondent No.1 had written a letter to Talati-cum-mantri vide letter dated 26.12.2016 and informed to clarify the premises of godown No.9 and 10 along with survey number so that process for new connection as demanded by Appellant can be done. But Talati-cum-Mantri had not replied.

3.3. It is submitted that construction agreement is made on 10.10.2014 for disputed premises i.e. godown No.9 and 10 by Respondent No.2, and for the same premises construction agreement is made by Appellant on 16.06.2015.

- 3.4. As per application made by Respondent No.2 for getting electric connection for godown No. 9 and 10, and as per documents submitted, sale deed of premises is of 13.10.2014 and Gram Panchayat has issued assessment copy on 24.07.2015 while for the said premises Appellant has applied for electric connection and submitted copy of sale deed dated 28.05.2015 and Gram Panchayat assessment copy dated 22.01.2016.
- 3.5. It is submitted that for the disputed premises Respondent No.2 has applied for electric connection on 05.08.2015 while Appellant has applied on 06.02.2016.
Supply Code Regulations 2015, Clause No.4.28, restricts Respondent No.1 to give 2 No. of electric connections in the disputed premises.
- 3.6. It is submitted that from the brochure submitted by Respondent No.2, all 10 No. of godowns are built up at a time in the disputed premises as observed. There is common wall for all the godowns and there is no separate approach for godown No.9 and 10.
- 3.7. It is submitted that Respondent No.2 has filed Civil Suit before Principle, Sr. Civil Judge, Ahmedabad Rural Court vide No. 250/2016 and 251/2016 and made party to Appellant, which is pending. Therefore, connection cannot be given till the court case is finalized for the disputed premises as intimated by Respondent No.2.
- 3.8. It is submitted that location of disputed premises i.e. godown No.9 and 10 is at Block No. 633 or at Block No.634 is not confirmed as per the documents submitted by Respondent No. 2 and Appellant. Talati-cum-Mantri has also not clarified the same.
- 3.9. CGRF has rightly decided the grievance and dismissed the plea of Appellant as per the Regulatory Norms. Appellant has submitted representation late by 220 days after CGRF order. The action of Respondent No.1 is as per the procedure laid down in Supply Code.
- 4.0.** Respondent No.2 has represented the case as under.
- 4.1. It is submitted that Respondent No.1 has approved the electric connection after verification of all relevant documents for godown No.

- 9 and 10, and after carrying out the site survey of the premises of godown No. 9 and 10.
- 4.2. It is submitted that Respondent No.2 has made construction agreement for the premises of godown No. 9 and 10 on 10.10.2014 with Shri Aiyubkhan Pathan, while for the said premises appellant has made construction agreement on 16.06.2015 with M/s. Afak Builders Pvt. Limited signed by Shri Aiyubkhan Pathan. Thus for the disputed premises two times construction agreement was made.
 - 4.3. Respondent No.2 has applied for electric connection to Respondent No.1 on 05.08.2015 and submitted (1) Sale deed copy dated 13.10.2014 and (2) Assessment copy dated 24.07.2015, while Appellant has approached to Respondent No.1 on 06.02.2016 for getting electric connection for godown No.9 and 10.
 - 4.4. On 03.02.2016 objection letter was submitted to Respondent No.1 against giving the electric connection in the disputed premises.
 - 4.5. An objection has been filed by Respondent No.2 against the public notice issued by Advocate of Appellant on 30.01.2016 and submitted the clarification.
 - 4.6. Respondent No.2 has also filed a notice to Appellant through an Advocate on 02.02.2016 by Registered Post AD, but it was not replied by Appellant.
 - 4.7. It is submitted that 10 No. of godowns are continuously constructed having common wall at a time as per the brochure submitted by builder. There is no separate approach for godown No. 9 and 10. It seems that all godowns are continuously constructed and not having two different Block numbers.
 - 4.8. Respondent No.2 has filed Civil Suit before Principle, Sr. Civil Judge, Ahmedabad Rural Court vide No.250/2016 and 251/2016 and made a party to Appellant regarding the disputed premises, which is pending. The electric connection as asked by appellant cannot be given till the final outcome of Court.

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- 4.9. It is submitted that there is no any documentary evidence, which prove that the disputed premises of godown No.9 and 10 is situated in Block No.633. There is no margin space and approach road with other nearby Block.

As per Clause No. 4.28 of Supply Code Notification No.4/2015, only one connection can be given in the premises, while in this case Respondent No.2 has paid the estimate for godown No.9 and 10.

- 4.10. It is submitted that CGRF has rightly decided the grievance and dismissed the plea of Appellant.

Appellant has filed representation after lapse of more than 200 days, hence as per Regulations, representation of Appellant is not maintainable. In Para No. 1 and 2 of representation filed by Appellant, contradictory submission is made by Appellant, which proves bad intention of Appellant for the disputed premises.

- 4.11. It is prayed that as the civil suit is pending in the Court regarding disputed premises and Appellant is one of the parties in the subject matter, the connection cannot be granted till the case is finalized by Court.

::ORDER::

- 5.0. I have considered the contentions of the Appellant and the Respondents and the facts, statistics and relevant papers, which are on record, and considering them in detail, my findings are as under.

- 5.1. The present representation filed by Appellant is time barred as per Clause No. 3.17(5) of Notification No.2 of 2011.

CGRF has passed an order dated 13.06.2016. Appellant had to file representation before Ombudsman within 30 days on receipt of CGRF order, but Appellant has filed representation before Ombudsman on 07.03.2017, late by around seven months, showing reason of medical ground, which was considered as genuine and representation of Appellant was admitted on that ground.

- 5.2. Appellant has basically raised issue to give electric connections for godown No. 9 and 10 and produced a copy of documents, such as copy of Assessment No.4877, 4878 of village Aslali, Block No.634. He has demanded electric connection on 06.02.2016 before Respondent No.1.
- 5.3. Forum, on considering the case declined to decide the matter holding that the present grievance does not fall with the category as per Clause No. 2.30(i) of Notification No.2 of 2011. Forum has made observations that Respondent No.2 has filed Civil Suit No. 250/2016 and 251/2016 before Principle, Sr.Civil Judge, Ahmedabad Rural Court for the disputed premises godown No. 9 and 10 and Appellant is one of the parties in that subject matter.
- 5.4. As per submission by Respondent No.1 in Para 3.1, Respondent No.2 has applied for electric connections for godown No. 1 to 10 on 05.08.2015 and Respondent No.1 has released electric connections for godown No.1 to 8.
- As per Para 4.4, on 03.02.2016 Respondent No.2 has filed objection before Respondent No.1 for not giving electric connections for godown No. 9 and 10, while on 06.02.2016 Appellant has approached Respondent No.1 for electric connection for godown No. 9 and 10.
- As per Para 3.1, Respondent has visited the site as per application of Appellant and it was found that premises of godown No.9 and 10 are same premises in which previously Respondent No.2 has asked electric connections and paid estimated amount and thereafter requested Respondent No.1 not released electric connection.
- 5.5. In present issue, Appellant has asked electric connections for godown No. 9 and 10 submitting revenue document of Block No.634, while Respondent No.2 has already paid the estimated amount for electric connections for godown No. 9 and 10 submitting revenue documents of Block No.633, and subsequently requested not to release the electric connections for the same. It was same premises where Appellant wants electric connections.

- 5.6. As per Para No.3.2, Respondent No.1 has asked the details of revenue documents for the disputed premises- Godown No. 9 and 10 - and location of the same falling in revenue Block No. 633 or 634, but Talati-cum-Mantri had not clarified the same to Respondent No.1. "Clause No.4.28 of Supply Code speaks that Distribution Licensee will not provide more than one connection for the premises". Therefore, Respondent No.1 has not initiated process for giving electric connection to Appellant, which seems correct.
- 5.7. The issue immerge here is disputed premises, godown No. 9 and 10, wherein Respondent No.2 has initiated civil suit as mentioned in Para No. 4.8 and said Civil Suit is pending before Civil Court. Thus, disputed premises are under question where electric connections are asked by Appellant while Respondent No.2 has objected against giving of electric connections to Appellant.
- 5.8. In such circumstances, Forum has rightly considered the grievance of Appellant and declined to decide the grievance as per Clause No. 2.30(i) of Notification No.2 of 2011.
- 5.9. Procedure for providing new electric connection Application Form Clause No. 4.12 of Supply Code speaks as under:
"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 legal 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 Clause 4.15-4.20 of this Code."
- In present case ownership or legal occupancy of premises by way of submission of revenue documents like Assessment copy of godown No. 9 and 10 and revenue survey Number/Block Number is disputed, while Appellant as well as Respondent has shown same premises godown No. 9 and 10 for getting electric connections. Therefore, it becomes disputed premises and Respondent is not in a position to decide the issue for release of electric connection.

- 5.10. From the above observations, Forum order is upheld and considered as final order. Plea of Appellant as per Para 2.12(2) and (3) is not maintainable and it is dismissed.
- 5.11. I order accordingly.
- 5.12. No order as to costs.
- 5.13. With this order, representation/Application stands disposed of.

(Dilip Raval)
Electricity Ombudsman
Gujarat State

Ahmedabad.
Date: 06.05.2017