

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,

Phone No.:0124-4684708, Email ID: ombudsmanjerc@gmail.com

Appeal No.121 of 2020

Date of Order: 04.02.2020

Shri Newton Fernandes

House No. 31/D

Ward No. 3 Molla-Sailabhat,

Chandor- Goa 403714

....Appellant

Versus

The Chief Electrical Engineer,

Electricity Department,

Govt. of Goa, 3rd Floor, Vidyut Bhavan,

Panaji, Goa 403001

and others

....Respondent

Date of Order: 04.02.2020

The Appellant has preferred an Appeal against the order of CGRF Goa dated 23.10.2019. The Appeal was admitted as appeal No.121 of 2020.

(A) **Submissions by the Appellant before CGRF:**

Whereas Shri Newton Fernandes, H. No. 31/D Ward No. 3 Molla-Sailabhat, Chandor- Goa 403714 has filed a complaint to the CGRF, Goa on dated 28.08.2019, regarding billing of 8 KWp Solar roof top plant installed by him .



(B) **CGRF order dated 19.11.2019, preferred for Appeal:**

Whereas CGRF, Goa in C.C. No.19/2019 dated 23.10.2019 dismissed the plea/ representation of Shri Newton Fernandes on account of lack of jurisdiction.

(C) **Submissions by the Appellant before Electricity Ombudsman:**

Whereas, Shri Newton Fernandes has filed an appeal before the Electricity Ombudsman for the State of Goa and Union Territories vide his mail dated 02.12.2019. Since, appeal was not filed in the prescribed format (Annexure - IV) as notified by Hon'ble Joint Electricity Regulatory Commission, he was requested to submit the appeal in the prescribed format in Annexure IV vide email/ letter dated 03.12.2019 & 07.01.2020.

Whereas Shri Newton Fernandes vide email dated 08.01.2019 has submitted that he is a Seaman and he is away from home for at least 6-7 months. When he was on vacation for 4 months, he applied to the Hon'ble CGRF, Goa and unfortunately, he lost time only to come to know that his grievance was not in the ambit of Jurisdiction of the Hon'ble CGRF, Goa. After applying to Electricity Ombudsman, he was in doubt if the Ombudsman has the Jurisdiction to entertain and adjudicate his grievance. So being in doubtful mindset and not knowing what to do, he left for work. He further stated that he plans to take legal advice and put the grievance in the Hon'ble Goa Court and requested to discard his appeal / representation by Ombudsman.



(D) **Analysis & Decision**

- (i) Whereas the undersigned is of the considered view that statutory authorities like Hon'ble CGRF and the Ombudsman have been created under the Electricity Act, 2003 for the protection of the consumer's interest and if the consumer is in doubt, it is incumbent on the part of the statutory authorities to guide him and clear his doubts. Therefore, since appellant is in doubt regarding jurisdiction, the undersigned has admitted his appeal suo motto to decide the sole question of jurisdiction of filling representation/complaint before the CGRF and accordingly the requirement of filling the appeal in Annexure-IV is also dispensed with for the sake of natural justice and for the benefits of other consumers at large.
- (ii) Whereas, the undersigned has given a thoughtful consideration to the representation of the appellant and CGRF Goa, Order and has come to conclusion that the Order of the Hon'ble CGRF, Goa has not been passed on merits. The plea/ representation of the appellant has been dismissed by the CGRF, Goa on account of lack of Jurisdiction, so at this stage, the hearing by the Ombudsman in this appeal is not required.
- (iii) Whereas the following provisions have been provided in the Consumer Grievances Redressal Forum and Ombudsman Regulations - 2019



notified by Hon'ble Joint Electricity Regulatory Commission for the State of Goa and Union Territories:-

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3. **Definitions:-** (1) *In these Regulations, unless the context otherwise requires, -*

(a) -----

(b) -----

(c) -----

(d) -----

(e) *“grievance” means, and includes any complaint, relating to any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which has been undertaken to be performed by a 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 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 effected person.

19. Limitations/ pre-conditions for submission of grievance:- The Forum may reject the grievance at any stage under any or more of the following circumstances:-

- (a) *In cases where proceedings in respect of the same matter and between the same Complainant and the licensee are pending before any court, tribunal, arbitrator or any other authority, or a decree or award or a final order has already been passed by any such court, tribunal, arbitrator or authority;***
- (b) *In cases which fall under sections 126, 127 135 to 139, 142, 143 152 and 161 of the Act;***
- (c) *In cases where the grievance has been submitted two years after the date on which the cause of action has arisen; and***
- (d) *In the cases of grievances which are-***
 - i. Frivolous, vexations, malafide;***
 - ii. Without any sufficient cause; or***



iii. Where there is no prima facie loss or damage or inconvenience caused to the Complainant or the consumers who are represented by an association or group of consumers.

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Therefore the Hon'ble CGRF, Goa has erred in coming to conclusion that it lacks the jurisdiction. The grievance of the appellant is fully covered in the definition of "Grievance" and Clause-19 of in the said Regulation called, Consumer Grievances Redressal Forum and Ombudsman Regulations, 2019, does not bar the CGRF to hear the appellant billing dispute regarding solar billing.

(iv) Whereas the grievance of the appellant is also fully covered in the Grid Connected Solar Power Regulations -- 2015 and Solar PV Grid Interactive System based on Net Metering Regulations -- 2019 and also in the Order passed by Hon'ble Joint Electricity Regulatory Commission in Petition No.200 of 2016, in which it has been provided that any dispute pertaining to Solar billing/payments and metering shall be referred to CGRF and Ombudsman appointed under sub-section 5 & 6 of Section 42 of Electricity Act-2003 , respectively , for settlement of disputes .



(E) **DECISION**

In view of the above analysis, I am of the considered view that grievance of the appellant is covered under the jurisdiction of CGRF, Goa. Accordingly, the Order of CGRF, Goa in C.C. No.19/2019 dated 23.10.2019 is set aside and remanded the case back to CGRF, Goa with direction to pass a speaking and reasoned Order on merits, as per Rules/Regulations in force.

If the appellant is agreed by the speaking and reasoned Order of the CGRF Goa, he can file appeal to the Electricity Ombudsman as per the Consumer Grievances Redressal Forum and Ombudsman Regulations - 2019.

The appeal is disposed of accordingly.



(M.P. Singh Wasal)

Electricity Ombudsman

For Goa & UTs (except Delhi)

Dated 04.02.2020

