

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: ombudsman.jercuts@gov.in

Appeal No.151 of 2021

Date of Video Conferencing: 07.10.2021

Date of Order: 11.10.2021

Thiru M. Jayakumar,
Puducherry

.... Appellant

Versus

The Superintending Engineer cum HOD,
Electricity Department and others
Puducherry

.... Respondents

Parties present:

Appellant(s)

1. Thiru M. Jayakumar,
Appellant

Respondent(s)

1. Thiru. G. Kaniyamuthan, Executive Engineer
2. Thiru. N. Krishna samy, Assistant Engineer - Computer
3. Tmt. P. Malarselvi, Junior Accounts Officer, Revenue
4. Thiru M. Guilbert James, Junior Engineer - O&M
5. Tmt. K. Gurusavoundary, Junior Engineer - Computer



Date of Order: 11.10.2021

The Appellant has preferred an Appeal against CGRF-Puducherry's order in CC-17/2021 dated-07.05.2021. The Appeal was admitted on 27.08.2021 as Appeal No.151 of 2021. Copy of the same as received was forwarded to the respondents with a direction to submit their remarks/ counter reply on each of the points. A copy of counter reply was supplied to the Appellant.

Settlement by Mutual Agreement

Both the parties appeared before the Electricity Ombudsman through Video Conferencing as scheduled on 07.10.2021 and were heard. Efforts were made to reach a settlement between the parties through the process of conciliation and mediation. However, no settlement mutually agreeable could be reached. The hearing therefore, continued to provide reasonable opportunity to both the parties to put forth their pleading on the matter.

(A) Submissions by the Appellant:

Appellant submitted the brief facts as under: -

1. Facts of the case

The Appellant had purchased a property at Muthumariamman Koil Street, from P. Karunakaran & P. Muralidharan sons of V.S. Pandurangan by virtue of sale deed dated- 08/07/2019. At that time P. Karunakaran & P. Muralidharan assured that there is no outstanding and to that effect they had furnished bill for the month of August 2019 dated 27/09/2019 for Rs784/-. Thereafter, bill for the month of September 2019 was received as DL and revealed an outstanding of Rs. 1260/- upto November 2019 and he has paid Rs.1,260/-. Then for the month of January 2020 an amount of Rs.1,650/- was also paid by him. Thereafter, no bills were received by him since the premises was locked for long time. Subsequently, all of a sudden during the lock down period for the month of June 2020 current consumption charges bill was received for the locked premises for an amount of Rs.1,17,715/- with a note as 'MS' in meter 2 installed in the premises. Immediately he had approached and stated that there is nothing as Meter 2 installed in the premises and this is a wrong in the bill.

The Respondents stated that there is some error and the same will be rectified in the next month and till then payment is not necessary. Further the Complainant had stated that in the month of July 2020, a bill was received as negative (-) 1,20,206/- with some irregular calculations. Immediately he had approached the Department and they had stated that there is some computer error and it is not necessary to pay. Again, in the month of September 2020, the amount was positive and revealed as 1,29,866/- as outstanding and again he had approached the office and the official promised to rectify in the next bill. Thereafter, the bill amount was printed in Negative for the month of January 2021 as Rs. (-) 1,29,048/-

The Complainant stated that there seems to be a grave mistake and malpractice in the Department. He had also given application for name transfer from the previous owner of the property V.S. Pandurangan, but the Respondents did not process the application on account of not clearing the discrepancy Pending outstanding in the bill. The Complainant further stated that the reply from the Respondents reveals that

there had been malpractice by the previous owner along with the hand in glove of the Electricity Department officials. Further the Complainant stated that due to negligence on the part of the Department he had lost revenue from the property from the month of June 2020 to till date. The Department had also disconnected the service connection without any valid reason. The Complainant states that in spite of suffering from old age disorders, he had approached the Respondents several times for the rectification of the bill, name transfer and meter change. But the Respondents have not bothered to reply.

Finally, the Complainant prays to order for change of default meter, rectify the readings, effect name transfer and to initiate legal action against the officials involved in malpractice and further order if any amount have to be paid before 08/07/2019, the same have to be ordered to be recovered from the previous vendors P. Karunakaran and P. Muralidaran sons of V.S. Pandurangan and further order compensation for the negligence in service and loss of rental income. He has approached the CGRF-Puducherry, but the Hon'ble CGRF has wrongly rejected his plea misconstruing the provisions of Clause-5.20 of Supply Cose-2018 and had taken other grounds to substantiate deficiency, malpractice on the part of the Respondents and to challenge CGRF order.

(B) Submissions by the Respondents:

Shri G. Kaniyamuthan, Executive Engineer (Urban), on behalf Respondents/Electricity Department-Chandigarh, submitted the counter reply as under: -

1. That the Appellant Shri. M. Jayakumar, residing at Muthialpet, Puducherry has sought for revision of bill in respect of Policy No. 03-15-06-0762 – A1 due to sudden raise in the CC Bill for the month of June 2020 with an amount of Rs. 1,17,715 and requested to take action.
2. That the appellant is said to have purchased the property from Shri. P. Karunakaran and Shri. P. Muralidharan sons of Shri. S. Pandurangan. The service stands in the name of Shri. S.Pandurangan with policy code No. 03-15-06-0762 – A1. He has further stated that at the time of purchase i.e. during the month of July 2019, there was no current consumption charges arrears due to Electricity Department and to that effect the claim for the month of August 2019 was Rs. 784. Subsequent months were served with DL averages.
3. That an enquiry was conducted and clarifications were sought from the Junior Accounts Officer – Revenue I, the Assistant Executive Engineer – Town I and from the Assistant Engineer – Computer.
4. That the Policy No. 03-15-06-0762 – A1 upon verification from the ledgers has been under long disconnection and treated as old disconnection cases (ODC). During the exercise carried out in the Department in reducing the mounting of arrears on the book, ODC cases are archived from the system and sent to the Financial Controller for recovery of arrears under Revenue Recovery Act. During such an exercise and based on the field report and as per the requisition of the Junior Accounts Officer – Revenue – I, an order has been issued for cancellation of 139 old disconnection cases vide order No.120 (ODC) dated 24.12.2018 which includes the said policy.



5. That the above policy was cancelled in December 2018 which pertains to the bill for the month of Sep 2018. The meter could not be removed by the Junior Engineer O&M as it remained under DL for quite a long period. As per the system data seen from the ledgers the policy has been under cancellation as ODC since then up to the month of May 2019.
6. That under the National Smart Grid Mission (NSGM) Pilot Project in Puducherry, the work of installation of around 31,500 Smart meters was awarded to M/s Dongfang Electronic Company Limited as per Government Order No. G.O. Rt. No. 85, dt. 04-03-2016.
7. Under the above project, the service provider has started installation after the receipt of Smart meters from February 2018 in batches. During the month of June 2019, when all the meters in the above area were changed into smart meters, this meter under the above policy which was under disconnection due to non - payment of arrears was also changed.
8. Due to the above change of meter, when the bill was served in July 2019 the arrears up to April 2019 was added by the computer. The previous owner of the property Shri. P. Muralidharan S/o Shri V.S. Pandurangan before the sale of the property had addressed the Assistant Engineer, Town Central vide letter dated 19-06-2019 stating that CC bills were not served for eight months and requested to do the needful with foot note mentioning that he would pay all the arrears. He has attached the copy of the Bill for the month of Oct 2018 for Rs. 1,13,690/-.
9. That this clearly shows that the consumer was very much aware of the arrears and he agreed to pay the same. This consumer letter was forwarded by the JE/Central O&M to the Assistant Executive Engineer, Town I on 21-01-2020 and who in turn had sent to the JAO, Rev I on 25-01-2020 for necessary claim of arrears. When this is all in black and white, with availability of copies of the above letters in the office of the Assistant Engineer and the Junior Accounts Officer, the question of hiding the arrears does not arise. The appellant is trying to evade genuine consumption arrears by making accusations without any grounds. (Even though the appellant has paid the arrears before filing the appeal).
10. Before the Revenue wing could update the arrear details and since this policy existed as a new consumer in the data base, the retrieval of policy from ODC resulted in the two billing data records in the database and thus two arrear values for the same consumer. When the computer centre removed the duplicate records from the data base, the original arrears under the above policy was retrieved and claimed in the bill for the month of February 2020 as arrears of Rs. 1,16,647 and carried over until it is cleared on 10-06-2021.
11. The above technical discrepancy is due to the rare phenomenon of having overwritten as new policy under the same policy code and retrieval of data on 03-02-2020 resulted in the pulling of data that was added at the tail end of the data base based on the program logic as informed by the AE Computer. And the actual arrears reflected in the bill of February 2020 served in April 2020.
12. The arrears at the time of deleting the policy under ODC i.e. during Dec 2018 (Bill for the month of September 2018) was Rs. 1,11,727 which was very well known to the previous owner at the



time of transaction. It is also a well-known fact that the policy holder/ previous owner was having arrears at the time of selling the property and the service was disconnected due to non-payment of arrears which the policy holder was aware of. It is the duty of the consumer to clear the arrears pertaining to the Department before effecting any name transfer. Moreover, the property was purchased at a cost of Rs. 83,00,000/- which is the GLR value whereas the market rate is much higher. In the registered Sale Deeds at page No. 5 the previous owner has assured that if there are any issues in the property it would be settled at their own cost. The previous owner having known the amount of arrears should have settled the arrears. But before issue of NOC or mentioning about the arrears, he had sold the property. This is not known to the department. Moreover, the letter submitted by the previous owner with copy of the bill showing details of arrears was sent to the JAO Revenue wing on 25-01-2020. When this is the case how the Department could do any malpractice in the hiding of arrears. Instead of claiming the arrears from the previous owner of the property, the appellant is trying to evade payment by blaming the department without any grounds. The statement of the appellant to adjust the arrears payment made by him from the monthly consumption of the appellant arising hereafter for the consumption already enjoyed is not correct.

13. That from the above, it may clearly be seen that archiving of the policy under ODC and subsequent adding of new consumer under the same policy number resulted in the reproduction of old arrears at a later date which is a technical flaw and would be set right in the new billing software being developed by the Department.
14. I humbly submit that it is proposed to install prepaid/Smart Pre-paid meters in the entire UT of Puducherry under Revamped Distribution Reforms Scheme of Government of India which is at RFP stage and is expected to be completed by October 2022. All the billing errors would be addressed and better service would be rendered to the consumers.
15. Since installation of smart meters was a pilot project there were few teething issues and issues such as common neutral leading to more consumption were all resolved.
16. It is also submitted that during the Corona Pandemic, consumers provided with Smart meters expressed satisfaction than the consumers with other meters since actual billing was made when MRs could not venture out for nearly two months during the first peak.
17. I humbly submit that when abnormal claims are reduced for genuine reasons, the same applies to the claim of arrears when the energy was actually consumed by the consumer.
18. Since existence of arrears in the said policy is known to the policy holder at the time of transaction of property it is the duty of the Policy holder to pay the same to the Department. And there exists no malpractice or any illegal claim as stated by the appellant. Hence, the claim of arrears is in order and this office humbly prays to dismiss the petition.
19. I humbly submit that the CGRF has rightly ordered for the payment of arrears for the genuine consumption of electricity and hence the above case may be dismissed please.



20. I humbly submit to the kind knowledge of the Hon'ble Ombudsman that the CGRF pronounced the order dated 7th of May 2021 and the appeal is preferred after four months way beyond the allowed 30 days and is liable for rejection.

(C) CGRF-Puducherry's order in CC-17/2021 dated-07.05.2021 preferred for Appeal:

(i) Ld. CGRF-Puducherry, has passed the following order in the complaint no-17/2021: -

Order.

i. The Respondent No.1 is directed to initiate department enquiry on :-

- a) the Field Staff who has failed in removing meter after sending proposal for cancellation under Revenue Recovery Act and on the staff, who has energized smart meter in disconnected service without the knowledge of the Field Officer.
- b) the Billing Clerk in respect of the billing inconsistency showing the uncollected arrears as (+)1,17,715 in June 2020 and as (-)1,20,206 in July 2020 the action of the Billing clerk should also be enquired so as to fix responsibility for such lacuna. Further creating of new bill with duplicate data base on a routine manner mainly on MFR statement for the month of May 2019 to December 2019 should be investigated in a time bound manner. Any other issues under ODC condition in smart metering project area which have been brought to service, as in this case, should be thoroughly checked as old arrears would have been moved to archive file.

ii. Since the Complainant has not taken action to cross check with the Department to obtain No Due Certificate and he being present occupier of the premises, he is directed to clear the arrears amount as per the provisions of the Supply Code. If the Complainant fails to clear the arrears within 30 days, the Department should initiate appropriate action to collect the arrears. The status report on the collection of arrears shall be filed before this Forum within 15 days of after that.

iii. Hence the Complaint is not allowed.

(D) Deliberations during Video hearing on 07.10.2021:

Appellant's Submission:

- a. Shri M.Jayakumar-Appellant, reiterated his version as submitted in the Appeal .
- b. He further submitted that Ld. CGRF has wrongly rejected his plea as per Clause-5.20 of Supply Code, which is applicable to the disconnected cases only whereas his premise was connected to the supply system of the Respondents.



Respondent's Submission:

- a. Thiru. G. Kaniyamathan -Executive Engineer, reiterated his version as submitted in reply to the appeal.
- b. On being asked to provide the date of Temporary Disconnection Notice and Date of Permanent Disconnection Notice. He stated that presently the same is not available but can be supplied after the VC hearing. However, he stated that connection was Permanently Disconnected before Feburary,2018.
- c. On being asked that while effecting Permanent Disconnection, why the service cable was not removed if the Meter could not be removed due to premises locked for a long time. He stated that sometimes due to underground service cable, the service cable cannot be removed.

(E) Findings & Analysis: -

1. I have perused the documents on record, CGRF orders and pleadings of the parties.
2. The documents submitted by the parties have been believed to be true and if any party submitted a fake/forged document, then they are liable to be prosecuted under relevant Indian Penal Code/Rules/Regulations.
3. The Appellant requested that he was affected by COVID-19 pandemic and could not travel frequently being senior citizen to get advice and file this Appeal in time. In view of the position explained the delay in filing the Appeal is hereby condoned in the interest of justice.
4. The issue which have arisen for considerations in the present Appeal is as under: -
 - (i). Whether the Appellant is liable to pay the pending arrears of previous owner and if he is entitled for the compensation for harassment as claimed?
5. Regarding issue no 4(i) as above, as to whether the Appellant is liable to pay the pending arrears of previous owner and if he is entitled for the compensation for harassment as claimed?
 - (a) Following provisions have been provided in the Electricity Act-2003 which is effective from 26.05.2003: -

(i) SECTION 56

“ Disconnection of Supply in default of payment:

- (1) *Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, after giving not less than fifteen clear days' notice in writing, to such person and without*

prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer:

Provided that the supply of electricity shall not be cut off if such person deposits, under protest,

- a) an amount equal to the sum claimed from him, or*
- b) the electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months,*

Whichever is less, pending disposal of any dispute between him and the licensee.

- (2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due, unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.”*

(ii) Following provisions have been provided in the Supply Code Regulations, 2018, notified by the Hon'ble Regulatory Commission: -

(i) Section 7.40: -

“Recovery of Arrears

7.40 No sum due from any consumer, on account of default in payment shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied.

Further, dues of any consumer (if any) pending for a period more than 6 months can be transferred to another installation of the same consumer after thorough verification by the Licensee, i.e., proof that the both consumers are same.”

(iii) In view of the provisions in the Electricity Act, Regulations notified by the Hon'ble Joint Electricity Regulatory Commission, the Electricity Department is entitled to recover the dues /arrears within 2 years.



(b) Following provisions have been provided in the Supply Code Regulations, 2018, notified by the Hon'ble Commission: -

(i) Purchase of existing property

- 5.20 *Where the applicant has purchased an existing property whose electricity connection has been disconnected, it shall be the applicant's duty to verify that the previous owner has paid all dues to the Licensee and obtained a "no-dues certificate" from him. In case where "no-dues certificate" has not been obtained by the previous owner before change in ownership of property, the new owner may approach the Licensee for such a certificate. The Licensee shall acknowledge receipt of such request and shall either intimate in writing the dues outstanding on the premises, if any, or issue a "no-dues certificate" within 1 month from date of receipt of such application.*
- 5.21 *In case the Licensee does not intimate the outstanding dues or issue a "no dues certificate" within this time, new connection to the premises shall not be denied on grounds of outstanding dues of the previous consumer. In such an event, the Licensee shall have to recover the dues if any, from previous consumer as per provisions of law.*

Sub-divided property

- 5.22 *Where a property has been legitimately sub-divided, outstanding dues for consumption of energy on such undivided property, if any, shall be divided on pro-rata basis based on area of such sub-divided property. A new connection to any portion of such sub-divided premises shall be given only after the share of outstanding dues attributed to such legitimately sub-divided premises is duly paid by the applicant. A Licensee shall not refuse connection to an applicant only on the ground that dues on the other portion(s) of such premises have not been paid, nor shall the Licensee demand record of last paid bills of other portion(s) from such applicants.*

(ii) Special Reading and Billing of Meters in cases of Change of Occupancy or Vacancy of Premises for Domestic Consumers

- 7.15 *It shall be the responsibility of the consumer to get a special reading done by the Licensee at the time of change of occupancy or on the premises falling vacant and obtain a No-Dues certificate from the Licensee.*
- 7.16 *The consumer shall request in writing to the Licensee for special reading to be taken at least 15 days in advance of the said vacancy of premises or change of the occupancy, as the case may be. However, the Licensee may accept a notice of shorter period.*
- 7.17 *The Licensee shall arrange to take a special reading of the meter within 5 days of receiving the consumer's written request and issue a final bill including all arrears till the date of billing, at least 5 days before change of occupancy / vacancy of premises. The final bill thus raised shall mention that no other dues are pending*



on the premises and the bill is final. The final bill shall also include charges for the period between the date of special reading and date of vacancy of premises on a pro-rata basis.

7.18 Once the final bill is raised, the Licensee shall not have any right to recover any charge(s) other than those in the final bill, for any period prior to the date of such bill. The Licensee shall disconnect supply to the premises on its vacancy. It shall be the responsibility of the consumer to make the final payment on vacating the premises and the Licensee shall accordingly issue a No-Dues Certificate on receiving such payment. However, in case of change of occupancy, the connection shall not be disconnected and after completing the commercial formalities for change of name, the same shall be affected

(iii) "Transfer of Connection"

5.85 The consumer shall not without prior consent in writing of the Distribution Licensee assign, transfer or part with the benefit of the Agreement executed with the Distribution Licensee nor shall part with or create any partial or separate interest there under in any manner.

5.86 A connection may be transferred in the name of another person upon death of the consumer or in case of transfer of the ownership or occupancy of the premises, upon filing an application form in the prescribed format given in either Annexure IV or V (as applicable) for change of name by the new owner or occupier:

Provided that such change of name shall not entitle the applicant to require shifting of the connection from the present location.

5.87 The Licensee shall deal with applications relating to change of consumer's name due to change in ownership/occupancy of property in accordance with the procedure detailed below.

- (1) The applicant shall apply for change of consumer's name in the format prescribed in Annexure IV to this Supply Code, 2018, along with a copy of the latest bill duly paid. The request for transfer of connection shall not be accepted unless all dues recoverable against the concerned connection are settled. The application form shall be accepted on showing proof of ownership/occupancy of property. A "No Objection Certificate" from the registered consumer/ authorized person/ previous occupant of the premises shall be required for cases involving transfer of security deposit in the name of applicant. The Licensee shall process the application form in accordance with Regulations of this Supply Code, 2018.
- (2) In case the No Objection Certificate from the registered consumer/ authorized person / previous occupant is not submitted, an application form for change of name shall be entertained only if security deposit as stipulated in this Supply Code, 2018 is paid afresh. However, the original security deposit shall be refunded to the claimant as and when a claim is preferred by the concerned person.
- (3) Change of consumer's name shall be in effect within two billing cycles after



acceptance of application form.

(iv) "Disconnection and reconnection"

- 9.1 The supply may be disconnected temporarily or on a permanent basis as per the procedure described below. The Licensee shall remove service line, meter, etc., after permanent disconnection. However, the Licensee may not remove service line, meter, etc., in case of temporary disconnection.
- 9.2 The charges for connection, reconnection and disconnection shall be in accordance with the Schedule of Charges approved by the Commission.

Temporary Disconnection

9.3 The supply may be disconnected temporarily in following cases:

- (1) On non-payment of the Licensee's dues: The Licensee may issue a disconnection notice in writing, as per Section 56 of the Act, to any consumer who defaults on his payment of dues, after giving him a notice period of minimum 15 working days to pay the dues. Thereafter, the Licensee may disconnect the consumer's installation on expiry of the said notice period by removing the service line/meter as the Licensee may deem fit;
- (2) If the conduct/continuance of any business/industry/activity being carried out in any premises becomes unlawful due to lack of necessary permission or withdrawal of permission from the competent authority;
- (3) If the wiring, apparatus, equipment or installation at the consumer's premises is found to be defective or there is leakage of electricity or if the consumer is found to have altered the position of the meter and related apparatus or if the consumer uses any apparatus or appliance or uses the energy in such manner as to endanger the service lines, equipment, electric supply mains and other works of the Licensee, or is found to be using it in any manner which unduly or improperly interferes with the efficient supply of energy to any other consumer;
- (4) If at any time, the consumer is found to be using energy for a purpose other than for which it was intended / provided or tampers with the meter and/or other apparatus of the Licensee on his premises or extends/allows supply of energy to any other premises from his connection;
- (5) If the consumer remains unavailable for meter reading for two or more billing cycle after factoring in advance payment for the period of absence, if any as per the provisions of this Supply Code, 2018.

9.4 The supply shall be disconnected after giving a notice period of minimum 15 days. The supply shall be disconnected only if the cause of the disconnection is not removed within the notice period.

9.5 The Licensee shall, after the connection is temporarily disconnected as per



Regulations 9.3(2), 9.3(3) and 9.3(4), issue a notice to the consumer to remove the cause of disconnection within 45 days for domestic consumer and 15 days for consumer of other categories, respectively, failing which the supply shall be disconnected permanently.

9.6 The Licensee may take steps to prevent unauthorized reconnection of consumers disconnected in the manner as described above. Wherever the Licensee discovers that connection has been re-connected in an unauthorized manner, Licensee may initiate action as per provisions of Section 138 of the Act. Further, in case the Licensee discovers that supply to such premises has been restored through another live connection, the same shall also be disconnected.

Permanent Disconnection

9.7 The supply shall be disconnected permanently in following cases:

- (1) On the termination of the Agreement;
- (2) If the cause for which the supply was temporarily disconnected is not removed within the notice period:

Provided that if the service of the consumer remains continuously disconnected for 180 days, not being a temporary disconnection upon request of the consumer, the Agreement shall be deemed to be terminated on the expiry of 15 days or after expiry of the initial period of agreement, whichever is later without prejudice to the rights of the Licensee or of the consumer under the Act for recovery of any amount due under the Agreement.

(v). Hon'ble Supreme Court in Paschimanchal Vidyut Vitran vs M/s DVS Steels & Alloys Pvt. Ltd has observed as under and relevant part is reproduced below: -

"8. The appellant submitted that if a consumer disposed of its premises, or any portion thereof, without clearing the dues in regard to the electricity supplied to its premises, any transferee seeking fresh electricity connection or supply of electricity to the premises, will have to clear the electricity dues of the previous occupant. The appellant referred to sub-clauses (g) and (h) of clause 4.3 of the Electricity Supply Code, which is extracted below :

"(g) Where the property has been legally sub-divided, the outstanding dues for the consumption of energy on such premises, if any, shall be divided on pro-rata basis.

(h) A new connection to such sub-divided premises shall be given only after the share of outstanding dues attributed to such sub-divided premises, is duly paid by the applicant. Licensee shall not refuse connection to an applicant only on the ground that, dues on the other portion(s) of such premises have not been paid, nor shall the licensee demand record of last paid bills of other portion(s) from such applicants." The appellant submitted that similar provisions existed in the relevant regulations of the Board even before the said Code came into force.



9. *The supply of electricity by a distributor to a consumer is 'sale of goods'. The distributor as the supplier, and the owner/ occupier of a premises with whom it enters into a contract for supply of electricity are the parties to the contract. A transferee of the premises or a subsequent occupant of a premises with whom the supplier has no privity of contract cannot obviously be asked to pay the dues of his predecessor in title or possession, as the amount payable towards supply of electricity does not constitute a 'charge' on the premises. A purchaser of a premises, cannot be foisted with the electricity dues of any previous occupant, merely because he happens to be the current owner of the premises. The supplier can therefore neither file a suit nor initiate revenue recovery proceedings against a purchaser of a premises for the outstanding electricity dues of the vendor of the premises, in the absence of any contract to the contrary.*
10. *But the above legal position is not of any practical help to a purchaser of a premises. When the purchaser of a premises approaches the distributor seeking a fresh electricity connection to its premises for supply of electricity, the distributor can stipulate the terms subject to which it would supply electricity. It can stipulate as one of the conditions for supply, that the arrears due in regard to the supply of electricity made to the premises when it was in the occupation of the previous owner/occupant, should be cleared before the electricity supply is restored to the premises or a fresh connection is provided to the premises. If any statutory rules govern the conditions relating to sanction of a connection or supply of electricity, the distributor can insist upon fulfillment of the requirements of such rules and regulations. If the rules are silent, it can stipulate such terms and conditions as it deems fit and proper, to regulate its transactions and dealings. So long as such rules and regulations or the terms and conditions are not arbitrary and unreasonable, courts will not interfere with them.*
11. *A stipulation by the distributor that the dues in regard to the electricity supplied to the premises should be cleared before electricity supply is restored or a new connection is given to a premise, cannot be termed as unreasonable or arbitrary. In the absence of such a stipulation, an unscrupulous consumer may commit defaults with impunity, and when the electricity supply is disconnected for non-payment, may sell away the property and move on to another property, thereby making it difficult, if not impossible for the distributor to recover the dues. Having regard to the very large number of consumers of electricity and the frequent moving or translocating of industrial, commercial and residential establishments, provisions similar to clause 4.3(g) and (h) of Electricity Supply Code are necessary to safeguard the interests of the distributor. We do not find anything unreasonable in a provision enabling the distributor/supplier, to disconnect electricity supply if dues are not paid, or where the electricity supply has already been disconnected for non-payment, insist upon clearance of arrears before a fresh electricity connection is given to the premises. It is obviously the duty of the purchasers/occupants of premises to satisfy themselves that there are no electricity dues before purchasing/occupying a premises. They can also incorporate in the deed of sale or lease, appropriate clauses making the vendor/lessor responsible for clearing the electricity dues up to the date of sale/lease and for indemnity in the event they are made liable. Be that as it may.*

6. As per record supplied by the Respondents, this connection was in arrears for Rs.1,02,111/- till January,2018. This arrear must be existing prior to this date and connection must have been Temporary/Permanently disconnected as per Rules. Being old disconnected connection (ODC), its



billing was deactivated since October,2018 and action was initiated for recovery of arrears under the Revenue Recovery Act. Respondents were not able to remove the Meter as the premise was locked, but they could have removed the service cable. Due to non -removal of service cable, unscrupulous elements have been able to reconnect a Disconnected connection, in which a Smart Meter was also installed in routine and inadvertently fresh billing started as a new connection. The reconnection of a Disconnected connection amounts to theft of energy. The reconnection of a Disconnected connection, further replacement with a Smart Meter and starting of a new computerised billing could have been averted, had the Respondents had taken due care to ensure that premise's service cable is removed while effecting Permanent Disconnection. The malpractices in reconnecting a Permanent Disconnected connection, cannot qualify to become a regular connection and Ld. CGRF has rightly considered it under clause 5.20 of Supply Code Regulations.

7. Even, otherwise there are ample statutory Regulations which provides that the new owner should get NOC from the Electricity Department while purchasing an existing property or Change of Occupancy or Transfer of the Connection. If the Appellant had followed the prescribed provisions of said Regulations, the Licensee shall not have any right to recover any charge before the date of NOC. Since the Appellant has not got the NOC from the Respondents, he is liable to pay the outstanding dues/arrears of previous owner if he wants to get /continue to receive the Electricity Supply to the premises, as decided by Hon'ble Apex Court in the above referred judgement. The Respondents has no concern with the understanding/Sale Deed entered with the previous owner.
8. The circumstances do not inspire confidence that reconnection of a Permanent Disconnected connection /premises has been done without the knowledge of the Appellant/owner. In view of above discussions, I am of the considered view that the Appellant is liable to pay the arrears of previous owner, if wants to get a new connection or wants to transfer a new connection in his name and I find no merit in the claim for the compensation.

(F) DECISION

- (i) For the reasons discussed above, the appeal of the Appellant is dismissed being devoid of merit. The order in Complaint No- CC-17/2021 dated-07.05.2021, passed by Learned CGRF-Puducherry is upheld.
- (ii) In case, the Appellant or the Respondents are not satisfied with the above decision, they are at liberty to seek appropriate remedy against this order from the appropriate bodies in accordance with Regulation 37(7) of the Joint Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2019.
- (iii) The appeal is disposed of accordingly.



11/10/2021

(M.P. Singh Wasal)
Electricity Ombudsman
For Goa & UTs (except Delhi)

Dated 11.10.2021