

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.142 of 2021

Date of Video Conferencing: 15.07.2021

Date of Order: 23.07.2021

Shri Shirish Kamat,
Margao – Goa.

.... Appellant

Versus

The Chief Electrical Engineer,
Electricity Department,
Goa

.... Respondent

Parties present:

Appellant(s)

1. Shri Nigel Costa Frias–Advocate
Appellant’s representative
2. Shri Shirish Kamat- Appellant

Respondent(s)

1. Shri Alvito Fernandes
Executive Engineer

Intervenor(s)

1. Sh. Amey Naik- on behalf of Vidya Vikas Co-operatative Society
2. Sh. Rajendra Siddarkar
3. Ms.LataJotkar



Date of Order: 23.07.2021

The Appellant has preferred an Appeal against the Order of the Learned CGRF-Goa in Complaint No-11/2021/263 dated-8/3/2021 and Review Order No-1/2021 dated 26/03/2021. The appeal/representation was received in this office on 15.04.2021 by email and was admitted for examination and consideration on 19.04.2021, as Appeal No.-142 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. Thereafter Vidya Vikas Co-operative Housing Society through Sh. Amey Naik filed application for intervention. Shri Rajindra Siddarker and 2 others said to be the founder Members of the Vidya Vikas Cooperative Housing Society, also filed application for intervention in this Appeal. They were allowed to intervene vide Interim Order dated-25.06.2021.

(A) Submissions by the Appellant:

Appellant submitted the brief facts as under: -

1. FACTS OF THE CASE

- a) From the submissions made by Appellant, it is culled out in brief that the Appellant claimed that he is a member, Builder of the registered Society known as Vidya Vikas Co-operative Housing Society. He is aggrieved by the complaint dated-16.02.2021 signed and filed by the Chairman, Vice-Chairman and Treasurer of Vidya Vikas Co-operative Society, before the Consumer Grievance Redressal Forum, Goa Electricity Department, for release of electricity connections to its members. The Electricity Department had not acted on their request as the Appellant himself had complained to the different authorities that he is the authorized person of the society and connections applied by other persons may not be released. Some others persons claiming to be founder members of the said society were also complaining the same. Various litigations are pending at the level of Civil Court/ High Court/Supreme Court/Co-operative Tribunal etc. between members and Contactors/Builders.He has challenged the CGRF order datd-8/3/2021 in complaint No-11/2021 and rejection of his Review application No-1/2021 vide CGRF order dated-26/3/2021.He has taken various grounds and the main ground taken for the Appeal are :-
- (i) That the Ld. Consumer Grievance Redressal Forum (CGRF) has illegally/ unlawfully without Jurisdiction entertained an Application made to it under Section 94 A of the Goa Daman Diu Public Health Act bythe Vidya Vikas Co-operative Society.
 - (ii) That the sole Independent member of the CGRF has no authority to decide the complaint/Review application as it lacks quorum.
 - (iii) That presently there is a status quo in operation dated 31/08/2020 issued by the Hon'ble High Court.



b) The Appellant has prayed following reliefs in this Appeal :

- a. For an appropriate order or direction thereby declaring that order passed by the independent member of Independent Member of the CGRF is null and void and quashing and setting aside order dated 8/3/2021 passed by Independent Member of the CGRF in complaint/representation no. 11/2021 made under the Goa Daman and Diu Public Health Act .
- b. For an appropriate order or direction thereby directing the Independent Member of the CGRF including the Independent Member of the CGRF to refrain from proceeding further in any manner based on order dated 8/3/2021 in complaint/representation no. 11/2021 made under the Goa Daman and Diu Public Health Act.
- c. That Pending the hearing and final disposal of the present petition this honorable Authority / court may be pleased to stay the operation of the order dated 08/03/2021 in complaint/representation no. 11/2021 passed by the Independent Member of the CGRF made under the Goa Daman and Diu Public Health Act .
- d. For an ad-interim relief in terms of prayer clause (c).
- e. Ex-parte relief in terms of prayer clause (c).
- f. Any other reliefs this Hon'ble Authority deems fit in the interest of Natural Justice.

c) The Appellant has filed the following documents:-

- (i) Appeal dated-15.07.2021 in Annexure-IV along with enclosures.
- (ii) Copy of RTI application dated-5.12.2017 regarding applying to Electricity Department for release of 239 KW load.
- (iii) Email dated-23/4/2021 regarding suffering from COVID.
- (iv) Email dated-07/06/2021 regarding Objection to intervention of Mr.Amey Naik on behalf of Vidya Vikas Co-operative Housing Society.
- (v) Email dated-9/6/2021 regarding submission of ID proof.
- (vi) Email dated-22/06/2021 regarding Objection to intervention of Mr. Amey Naik.
- (vii) Email dated-22/06/2021 regarding request to reschedule VC hearing.
- (viii) Email dated-05/07/2021 regarding reply of Electricity Department.
- (ix) Email dated-11/07/2021 regarding reply to Interim Order and request for speaking of minutes.
- (x) Email dated-14/07/2021 regarding objection to intervention by Mr.Amey Naik due to conflict of interest.
- (xi) Email dated-14/07/2021 regarding submission of written arguments.
- (xii) Email dated-14/07/2021 regarding counter reply to the maintainability of this Appeal filed by Vidya Vikas Co-operative Society.
- (xiii) Email dated-19/7/2021 regarding further Rejoinder after the final hearing .
- (xiv) Email dated-20/7/2021 regarding request to understand fraud etc.



(B) Submissions by the Respondents :

Sh.Alvito Fernandes, Executive Engineer on behalf Electricity Department-Goa, vide email dated-1/7/2021 submitted counter reply as under :-

1. The Hon'ble CGRF, in its Order dated March 8,2021, directed the GED to release connections in respect of applications filed by Vidya Vikas Cooperative Housing Society within 15 days, failing which the GED would be liable to pay Rs.200/- per day per consumer.
2. In accordance with clause 5.56 (1) and 5.57 (5), the Sub-Division made a written request to the complainant (to CGRF) Vidya Vikas Housing Society to submit allotment letters in respect of the 31 nos. installations where supply was to be released.
3. Following receipt of allotment letter, the connections were released on April 7, 2021 within the stipulated time so as to abide by the directives of the Hon'ble CGRF.
4. It may be noted that 10 nos connections were released earlier to Vidya Vikas Cooperative Housing Society against allotment letters, as applied by Mr. Shirish Kamat, as representative of the Society. Subsequently there were 31 nos additional connections applied for by Mr.Kiran V.Naik, claiming to be legal representative of Vidya Vikas Cooperative Housing Society. With objections now filed by various individuals, claiming to be original members of the Society combined with time-bound action sought by the Hon'ble CGRF, it was decided to release the connections in the name of Vidya Vikas Cooperative Housing Society. As far as correcting the name is concerned, our billing software (SAP system) supports correction of name (and address, if necessary) without any charges.

(C) Submissions by the Intervenor – Vidya Vikas Co-operative Housing Society :

(i) Managing Committee of Vidya Vikas Co-operative Housing Society Ltd, vide their submissions dated-29/6/2021, through their Authority Holder Mr Kiran V Naik submitted that they have filed complaint in CGRF for release of Electricity connections to their units.The Appellant and Shri Rajindra Siddakar and others had intervened before the CGRF and all their contentions were rejected. The Society has preliminary objection to the maintainability of this Appeal by the Appellant, who they claim has no connection with the Society or its Units and has been restrained by courts to interfere in their property. They also objected to the appearance of Advocate for the Appellant in this Appeal. In nutshell they requested to dismiss this Appeal.

(ii) The Housing Society has filed the following documents :-

- (a) Email dated-27/4/2021 regarding application for intervention.
- (b) Email dated-24/6/2021 regarding authority letter in respect of Sh. Amey Naik
- (c) Email dated-24/6/2021 regarding ID proof of Sh. Amey Naik
- (d) Email dated-24/6/2021 regarding signed copy of application for intervention along with documents requested in Interim order dated-25/6/2021
- (e) Email dated-10/7/2021 regarding objection to the appearance of Advocate for the Appellant.
- (f) Email dated-15/7/2021 regarding objection to maintainability of Appeal.



(D) Submissions by the Intervenor – Shri Rajindra Siddarker and others

- (i) The Intervenor vide their email dated-24/6/2021, jointly requested for intervention because they were also party to the CGRF order dated-8/3/2021. They claim to be founder members of Vidya Vikas Cooperative Housing Society and therefore necessary party to intervene. Copy of the same was supplied to Appellant/Respondent/Intervenor and VC hearing was fixed on 25/6/2021 for consideration of their application to intervene. After hearing, an Interim order dated-26/6/2021 was passed, allowing them to intervene in the interest of justice and certain more documents were sought from them. They have also taken almost similar grounds as the grounds taken by the Appellant.
- (ii) They have filed the following documents: -
- (a). Email dated-24/6/2021 regarding application for intervention.
 - (b). Email dated-24/6/2021 regarding ID proof
 - (c). Email dated-5/7/2021 regarding additional documents
 - (d). Email dated-12/7/2021 regarding reply with documents requested in Interim order dated-25/6/2021
 - (e). Email dated-15/7/2021 regarding written arguments
 - (f) Email dated-15/7/2021 regarding withdrawal of application to intervene

(E) CGRF-Goa Order in CC-11/2021/263 dated 08/03/2021 and Review order dated-26/3/2021 preferred for Appeal:

- (i) Ld. CGRF-Goa, has passed the following order in the complaint no-11/2021/263: -

Order.

In light of the foregoing, I pass the following order:

1. This complaint is allowed.
2. The Licensee Department is directed to charge the transformer and release all connections applied by the Complainant's members within fifteen days from receipt of this order, failing which it would be liable to pay penalty of Rs. 200/- (Rupees Two Hundred only) per connection to the consumer for every day of default.
3. Compliance shall be reported to this Forum within thirty days.
4. The complaint stands disposed accordingly.

- (ii) Ld CGRF-Goa, has passed the following order in the Review Petition no-1/2021: -

Order

In view of the foregoing discussions, I did not find any merit in the applicant's plea. No grounds are made out that would warrant exercise of review jurisdiction. Hence, the review application dated 16.03.2021 stands dismissed.



(F) **Deliberations during Video hearing on 15.07.2021:**

1. Appellant's Submission:

- a. Shri Nigel Costa Frias, the Appellant's representative and Shri Shirish Kamat reiterated their version as submitted in the Appeal, Rejoinder and written arguments etc.
- b. On being pointed out that allotment submitted in Exhibit –B is only a NOC to apply for bank loan , he informed that he has this NOC cum allotment letter only. He further informed that he has submitted share certificate in the Vidya Vikas Society.
- c. On being asked if he has ever applied to Electricity Department for his individual electricity connection , he replied in negative but added that he applied to Electricity Department in 2017 for release of connections for the Vidya Vikas Society under his signatures being authorized person.

2. Respondent's Submission:

- a. Sh. Alvito Fernandes, reiterated his version as submitted in reply to the appeal.
- b. On being asked that as per section 5.56 and 5.57 of Supply Code Regulations -2018, only individual connections in the name of different allottee can be released but Electricity Department has released individual connections in the name of Vidya Vikas Society, which is not permissible as per said Regulations.He informed that in compliance to CGRF order they have released the 31 connections in the name of society , to avoid penalty. However, he informed that individual members can get the change of name carried out.

3. Intervenor Sh. Rajindra Siddarkar and others's Submission:

- a. Shri Rajindra Siddarkar and Ms Lata Jotkar, reiterated their version as submitted in the Appeal, Rejoinder and written arguments.
- b. On being pointed out that they have not submitted the allotment letter,they informed that they have not been issued any allotment letter though they are among the 16 founder members of the Vidya Vikas Society.
- c. On being asked if they have ever applied to Electricity Department for their individual electricity connection,they replied in negative.

4. Intervenor- Vidya Vikas Co-operative Society's Submission:

- a. Shri AmeyNaik , POA of Vidya Vikas Co-operative Society reiterated his version as submitted in the Appeal, Rejoinder and Preliminary Objection to the maintenance of Appeal filed by Sh. Shirish Kamat.
- b. During hearing he was clarified that as per Regulations there is no bar to the appearance of Advocates before the Ombudsman.



(G) **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 correct and if any party submitted a fake/forged document, then they are liable to be prosecuted under relevant Indian Penal Code/Rules/Regulations. All the parties are leveling allegations against each other, but I have restricted to the merits of each contention, with regards to the release of connections to the Housing Society and its members only.
3. The issues which have arisen for considerations in the present Appeal are as under: -
 - i. Whether the Appellant/Intervenors are complainant/consumer as per Supply Code Regulations-2018 in this Appeal?
 - ii. Whether the sole Independent member of the CGRF has authority to decide the complaint/Review application?
 - iii. Whether the status quo dated 31/08/2020 of the Hon'ble High Court as submitted by Appellant is for not releasing the connection applied by the Vidya Vikas Co-operative Society?.
 - iv. Whether the Ld. Consumer Grievance Redressal Forum (CGRF) has illegally /unlawfully without Jurisdiction, entertained an Application made to it by the Vidya Vikas Co-operative Society under Section 94 A of the Goa Daman Diu Public Health Act ?
 - v. Whether the individual connections has been released as per Supply Code Regulations-2018?
4. Regarding issue no 3(i) as above, as to whether the Appellant/Intervenors are a complainant/consumer as per Supply Code Regulations-2018 in this Appeal are analyzed as under:-
 - a) The following provisions have been provided in the Supply Code Regulations- 2018, notified by the Hon'ble Commission: -
 - " d) **Complainant**" /Consumer means and includes
 - (i) any electricity consumer or consumers including their legal heirs or successors, having a grievance/complaint against a licensee and lodging the same either directly or through their representatives, or
 - (ii) any voluntary/registered consumer society/association or associations, registered under the law for the time being in force and making the complaints in the larger common or similar interest of the consumers, or
 - (iii) any person whose electricity connection is disconnected, or
 - (iv) an applicant for a new connection for the supply of electricity;
 - (v) A consumer as defined under clause (15) of Section 2 of the Act



- (vi) *Any unregistered association or group of consumers where they have common or similar interests;*
- (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. (f)*
- (f) *“Complaint” means an application made by consumer before the forum seeking redressal of any grievance with regard to supply of electricity by the licensee;*

Provided that the following shall not be considered as the complaint namely,

- (i) *any grievances arising out of application of Sections 126,127, 135 to 139, 142, 143, 149, 152 and 161 of the Act;*
- (ii) *any matter pending before, or decided by, any court of law, or authority (except an authority under the control of the licensee) or the Forum, and*
- (iii) *any complaint in regard to recovery of arrears where the billed amount is not disputed.*

b). Following documents/procedure has been prescribed in the Supply Code Regulations- 2018, notified by the Hon'ble Commission:

Procedure for providing New Electricity Service 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)

Application form for release of new connection (High Tension/ Extra High Tension)

Format for declaration/undertaking to be signed at the time of receiving electricity supply

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 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 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/ Lekpal/ 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 / khatanakal;*
- (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:

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.

c) The Electricity Act-2003 and the Rules/Regulations framed by the Hon'ble Regulatory Commission are for the protection of the prospective/existing consumers or occupier of the premises so that they are provided uninterrupted electricity supply, which has been regarded as basic need and a right to live.

d)(i) To ascertain whether the Appellant and other Intervenor -i.e Sh.Rajindra Siddarkar and others are complainant/consumers, they were requested to supply certain documents. The Appellant was requested to supply the following documents and his submissions and appreciation of his defense are tabulated as under :--

SN	Documents Demanded in Interim Order -25/6/21 from Sh. Shirish Kamat-Appellant	Response of Sh. Shirish Kamat	Appreciation of response of Sh. Shirish Kamat
1	Copy of documents which proves that he is member of the Vidya Vikas Co-operative Housing Society.	Appellant vide letter dated - 5/7/2021 ,submitted a Copy of Proof of Receipt dated 30/12/2012 for payment of Entrance fees and Share Capital and share certificate issued by Vidya Vikas Co-operative Housing Society.	These documents only indicate that he may be a member of the Vidya Vikas Co-operative Housing Society.
2	Copy of allotment letter received from the Vidya Vikas Co-operative Housing Society.	Appellant vide letter dated - 5/7/2021 ,submitted Exhibit-B, which is a copy of NOC cum Allotment letter	This document can not be considered a Allotment letter , as it is a NOC specifically issued on his request for the purpose of taking a loan from the Bank.
3	Any other document he wish to submit in his defense.	Appellant vide letter dated - 5/7/2021 ,submitted Exhibit-C, which is a Copy of irrevocable Authority letter dated 21/07/2011	These documents if considered to be genuine, only indicates that he may be a authorised



		and copy of Authority letter 16/02/2015 for obtaining Occupancy etc. to substantiate that he is a authorized signatory for Vidya Vikas Co-operative Housing Society.	signatory for the Vidya Vikas Co-operative Housing Society.
4	Details of payment made by him to the Vidya Vikas Co-operative Housing Society.	Appellant vide letter dated - 5/7/2021 ,submitted a list of 36 investor members as stated which indicate that the entire campus is constructed with the investment of these persons amounting to Rs. 5.8 Crores and that of the builder who has invested Rs. 11.50 Crores totaling Rs.17.30 Crores .	There are disputes in the society regarding membership and authority to represent the Vikas Co-operative Housing Society and these matters are being adjudicated by the competent courts.
5	Proof of applying to the Electricity Department for release of electricity connection in the allotted house/flat.	Appellant vide letter dated - 5/7/2021, submitted that he applied to Electricity Dept. Vide Application dated 05/12/2017 .	This letter is for release of Electricity connection to the Vidya Vikas Housing Society and he has not applied to the Electricity connection for individual connection on the prescribed Application forms, as per Regulations detailed above.

A perusal of above table reflects that Appellant has neither allotment letter nor possession of any house/flat in the Society. He has also not applied to the Electricity Department for any new connection. Thus, he cannot be considered as a complainant/consumer in this Appeal and he has no grievance against Electricity Department. His grievances are against the society and other members, which are under adjudication by competent courts. Therefore, I find that he has no locus standi to challenge the CGRF order dated-8/3/2021.

(d)(ii) The intervenor Sh. Rajindra Siddarkar and others were also requested to supply the following documents and their submissions and appreciation of their defense are tabulated as under :-

SN	Documents Demanded in Interim Order -25/6/21 from Sh. Rajindra Siddarkar and others -Intervenor	Response of Sh. Rajindra Siddarkar and others	Appreciation of defense of Sh. Rajindra Siddarkar and others
1	Hard copy of Application for intervention along with the identity proof of the signatories	Submitted Hard copy and by email dated-12.7.21 Annexure-A	
2	Copy of documents which proves that they are members of Vidya Vikas Co-operative Housing Society.	Submitted copy of the Bylaws and Inquiry report which indicates they are only members of land owners society.	The dispute regarding membership under adjudication before competent court.



3	Copy of allotment letter received from the Vidya Vikas Co-operative Housing Society.	Stated no allotment letter issued to them due to matters before the High Court	No allotment letter is available with them till date of hearing i.e-15.7.2021.
4	Any other document they wish to submit in their defence.	Submitted other documents to indicate that they are among 16 founder members of the society.	The dispute regarding membership under adjudication before competent court.
5	Details of payment made by them to the Vidya Vikas Co-operative Housing Society.	No document submitted -	--
6	Proof of possession of House/flat in the Vidya Vikas Co-operative Housing Society.	-No document submitted except that matter is under consideration before Registrar Co-operatives/High Court.	Since there is no allotment letter, therefore possession of house/flat does not arise.
7	Proof of applying to the Electricity Department for release of electricity connection in the allotted house/flat.	-No document submitted	They have not applied to Electricity Department for individual connections on the prescribed Application forms, as per Regulations detailed above.

A perusal of above table reflects that Sh.Rajindra Siddarkar and others-Intervenors, have no allotment letter and they have not applied to the Electricity Department for any new connection. Thus they can not be considered as a complainant/consumer in this Appeal and they have no grievance against Electricity Department. Their grievances are against the Housing Society and other members, which are under adjudication by competent courts. Therefore, they have no locus standi to challenge the CGRF order dated-8/3/2021.

After the hearing on 15.07.2021, they have intimated vide email dated-15.7.2021, that they are withdrawing their application for intervention citing misconception of legal provisions by themselves and now on legal advice they are perusing the matters before the High Court.

(d)(iii) The intervenor -Vidya Vikas cooperative Housing Society was also requested to supply the following documents and their submissions and appreciation of their defense are tabulated as under :-

SN	Documents Demanded in Interim order-25/6/2021 from Intervenor – Vidya Vikas Cooperative Housing Society	Response submitted by Intervenor –Vidya Vikas Cooperative Housing Society	Appreciation of defense of Intervenor- Vidya Vikas Cooperative Housing Society
1	Hard copy of Application for intervention along with the identity proof of the signatories. To submit the self-attested copy of Identity proof (such as Aadhar Card, passport, Voter Identity Card, Driving License or any such documents) of the persons who has signed Letter of Authority dated- 24.06.2021.	--Hard copy Submitted vide email dated-30/6/21 --ID/ Aadhar card of following office bearer of Vidya Vikas Cooperative Housing Society attached- (i). Vishwas Dharma Jotkar - Chairman (ii) Shobna Vishwas Kankonkar- Vice Chairman (iii) Anand Shantaram Vernokar- Secretary	This indicates that they are covered as complainant under d)(ii&iv) of the Regulations detailed above and also covered under Multi Consumer Category as a Housing Society to have individual connections
2	List of persons who are members of the Vidya Vikas Co-operative Housing Society	List of 30 members attached	This indicates that they are covered under Multi Consumer Category as a Housing Society
3	List of members who have been allotted the houses/flats along with the house/flat number .	30 letters of Allotment attached	These allotment indicates that they are covered as consumers under Multi Consumer Category to have individual connections
4	List of members who are yet to be allotted the houses/flats.	Informed that no house is to be allotted. Lata Jotkar and Rajindra Siddarkar have abandoned/No contribution since 1991 and resigned in 2016 from the Society. Copies of their Resignation letters from membership of Society attached,	--
5	List of connections applied	List of 31 connections including 3 for Lifts attached .	They have applied under Multi Consumers and has opted for individual connections as they have installed their own 11 kV sub station
6	Copy of Registration of the Vidya Vikas Co-operative Housing Society by the Registrar Co-operative Societies of Goa or any such statutory authority of Goa.	Attached	This indicates that they are a Housing Society and covered under Multi Consumer Category to have individual connections
7	Reasons for taking electricity connections in the name of Vidya Vikas Co-operative Housing Society rather than the individual purchaser/member of the Housing Society.	Because Sale deed and Occupancy is in the name of society .	The Regulation clearly prescribed that after the Society opted for irrevocable option to have individual connections, the individual allottee needs to apply to Electricity Department and the department has to sanction the same individually i.e. in different names as per Allotment Letters.
8	How much amount was recovered from each member and schedule of handing over the possession of flats/villas to the members.	30 members who have contributed for the purchase of flats were issued Allotment letter in pursuant to orders if Hon'ble HC in LD-VC-CW-No-75 of 2020 dated -4/8/2020 and	--



		subsequent orders of Hon'ble Co-operative Tribunal dated-19.08.2020.	
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A perusal of above table reflects that Vidya Vikas Cooperative Housing Society -Intervenor, is a registered Society and covered as complainant under d) (ii&iv) of the Regulations detailed above and are also covered under Multi Consumer Category. They have issued allotment letter and they have applied to the Electricity Department for any new connections. Thus they can be considered as a complainant/consumer in this Appeal and they had grievance against Electricity Department for not releasing the connections so applied by them.

5. Regarding issue no 3(ii) as above, as to whether the sole Independent member of the CGRF has authority to decide the complaint/Review application ?

I have already interrupted the CGRF and Ombudsman Regulations-2019, in Appeal N0-130/2020 and Appeal No-131/2020 (which are available on the website of Joint Electricity Regulatory Commission for the state of Goa and UTs under heading Office of Ombudsman) that a single member of CGRF is competent to hear and pass orders on consumer complaints in case of vacancy(s). Hon'ble Regulatory Commission has also held the same views and directed the single member to hear and dispose of the consumer complaints independently till the vacancies are filled, so that consumers are not deprived of their legitimate right of 1st Appeal to the Electricity Ombudsman.

6. Regarding issue no 3(iii) as above, as to whether any status quo has been ordered by Hon'ble High Court.

(a) The Appellant has himself certified in the representation to Appeal in Annexure-IV as under: -

“That the subject matter of the present representation has not been decided by any competent Authority/court/arbitrator, and is not pending before any such authority / court / arbitrator.”

- (b) Thus, averment of the Appellant on one hand that no case is pending and on the other hand pointing that Status quo has been granted by Hon'ble High Court is an attempt to misled this authority. He has not elaborated whether the status quo is with regard to release of Electricity connections to the Housing Society or any other matter related to the endless various disputes/litigation between members of Housing Society and between builders/contractors, under adjudication by various quasi/judicial authorities. His sole aim appears to misled this authority to obstruct the release of electricity connections on one pretext or the other, even when he has no locus standi to file this Appeal as adjudicated in para 4(d)(i) above.
- (c) As rightly observed by Ld CGRF in its order , above all, it must be kept in mind that electricity supply is an essential service and a part of fundamental right to life. In *Chameli Singh v. State of*



UP reported in AIR 1996 SC 1051, Hon'ble Apex Court, while discussing the components of right to life, specifically observed that the right to life includes the right to live with human dignity and further, while discussing right to shelter, held that right to shelter includes electricity.

(d) Further Hon'ble High Court at Calcutta Circuit Bench at Port Blair in its Constitutional Writ Jurisdiction in the Writ Petition No.-423 of 2010, clearly decided as under: -

"We therefore hold that a person in settled possession of a property as illustrated in the case of Rama Gowda (Supra) is free to apply for supply of electricity without consent of the owner of the same and is entitled to get electricity connection and enjoy the same until he is evicted by the due process of law.

We, have already pointed out that either in the Electricity Act, 2003 or in this Rules of 2006, there is no procedure prescribed for resolving the dispute as to the status of an occupier in the property over which the electricity is sought to be brought or over which any work is to be constructed by the licensee for giving connection of electricity to any person. To construe the word "lawful" appearing in the Rule as "having perfect legal title to possess would lead to absurdity in implementing the object of the Act and the Rules. In that event, at every stage, the licensee would face problem in giving electricity whenever any dispute as to the title of a person to remain in possession would be raised by any other person claiming to be the owner having lawful title over the property in question and the licensee would be required to wait until such a dispute is resolved by a competent court in a protracted litigation. We, therefore construe the word "lawful occupier" appearing in the Rule as "the person in settled possession".

Since all the land in these islands belong to the Union of India, the latter is not required to file a civil suit for eviction of a trespasser and the trespassers can be evicted by taking recourse to Regulation of 1966. However, so long such a trespasser in settled possession is not so evicted, he should be entitled to get electricity with the aid of Section 43 of the Electricity Act on compliance of the terms of supply as provided under law. It is needless to mention that the enjoyment of such electricity will not confer any right or equity to favour of the TRESPASSER in occupation to defeat the title of lawful owner.

In view of above dictum of Hon'ble Apex court and High Court the release of Electricity Connection in no way confer any right to the ownership of flats/house in Vidya Vikas Housing Cooperative Society, but only guarantee a right to live, till one is evicted by following the due process of law.

7. Regarding issue No-3(iv) as above as to whether the Ld. CGRF has illegally / without Jurisdiction, entertained an Application made to it under Section 94 A of the Goa Daman Diu Public Health Act ?

(a) I have perused the complaint dated-16.02.2021 (as supplied by the Appellant) as submitted by the by the Vidya Vikas Co-operative Society to CGRF. The subject of the complaint is as under :-

“Subject- Petition under section 94A of the Goa, Damn and Diu Public Health “

Except the subject all over in the body of their 4 page complaint, they are referring to the delay by the Electricity Department in releasing connections to the residents of the Housing Society . In fact they have even refer to clause 5.52 of the Electricity Supply Code Regulations-2018 notified by the Hon’ble Joint Electricity Regulatory Commission. Nowhere in the complaint they have quoted any reference of Goa, Damn and Diu Public Health Act, except the subject. This inadvertent typographical error /mis nomenclature in the subject can be ignored in the consumer interest. The contents and intention of the complaint leaves no iota of doubt to establish that complaint has been made against Electricity Department for release of new connections to the Housing Society. Ld CGRF has not passed any order under Goa, Damn and Diu Public Health Act, as alleged by Appellant. Ld. CGRF has passed the orders as per Rules/Regulations notified by Hon’ble Joint Electricity Regulatory Commission. The CGRF and Ombudsman has been created under statute to protect consumer interest and not to harass the consumers for such typographical errors.

Therefore, I find that the Ld. CGRF has clearly followed the intent of the statue and order passed by it is legally in order, as no order has been passed as per the Goa, Damn and Diu Public Health Act as alleged by the Appellant.

8. Regarding issue no-3(v), as to whether the individual connections has been released as per Supply Code Regulations-2018 ?

(a) The following documents/procedure has been prescribed for release of connections to Housing Societies (treated as Multi Consumer complexes) in the Supply Code Regulations- 2018, notified by the Hon’ble Commission:-

Procedure for Supply to Multi-Consumer Complex

5.56 *In case of multi-consumer complexes, such as Group Housing, etc., the new connection sought shall preferably be provided at single point with single meter on LT if load is up to 100 kVA and on HT if load exceeds 100 kVA. A new connection will not be granted until the entire electrical infrastructure is completed. The Licensee shall ensure energization of new connection only after physically verifying the entire internal electrical infrastructure and fulfilment of Regulation. However, this shall not restrict the individual owner or occupier of any premises for applying for individual connection and the Licensee shall sanction such individual connections. The choice of having single LT/HT connection or individual connections, once exercised before release of connection, cannot be revoked due to operational problem.*

In case the connected/contracted load of any connection is projected to be more than 100 kVA, a separate transformer of adequate capacity shall be installed at consumer’s cost. The space/room required for housing the transformer, substation, switch gears, meters and panels shall be provided by the consumer, free of cost, which is easily accessible to the Licensee.

For any new connection with connected /contracted load lower that 100 kVA also, License may requested by the consumers, at consumer’s cost.

In case the consumers in Multi-consumer complex have availed individual connections, separate connection shall be provided for consumption of energy for common services



such as lifts, pumps for pumping water, etc., and such consumption of such connection shall be billed at highest slab of respective tariff category.

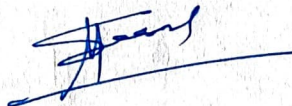
For all the connections exceeding 11 kV for multi-storeyed building of more than fifteen metre in height, the connection shall be released after obtaining the certificate from Electrical Inspector in accordance with the provisions of Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010 as amended from time to time.

- 5.57** *For such Multi Consumer complexes, the builder / developer /society/ Owners Association. shall be liable to pay service connection charges, i.e., cost of service connection from the existing network of the Distribution/Transmission Licensee to the point of supply, as approved by the Commission from time to time.*

Note: The developer/builder/society/ Owners Association includes any agency whether Government, local body or private that constructs the Multi-consumer Complex.


- (1) Location for installation of meter should be decided in consultation with the consumer in accordance with the procedures detailed in Chapter-6 of this Supply Code, 2018.*
- (2) Connections for common facilities like lift, water pumps, etc., shall be given in the name of the builder / developer / society/ Owners Association.*
- (3) In case the original approved plan is for a multi-consumer complex, but the builder/developer / society / consumer desires to avail connection for a portion of it, the connection shall be provided treating it as multi-consumer complex.*
- (4) If a building comes under the category of multi-consumer complex and if a separate distribution transformer of sufficient capacity is necessary for giving supply to such building which was not provided earlier, it will be provided at the cost of the builder/developer/society consumer. Alternatively, the builder/developer/society/ consumer shall bear the additional cost to augment the capacity of the existing 11/0.4 kV substation, if found necessary by the Licensee.*
- (5) On receipt of requisition from the builder/developer/society consumer for supply of electricity to multi-consumer complexes, the Licensee shall extend the supply as per this Supply Code, 2018.*

As per above said Regulations, the society can apply for electricity connections under Multi Consumer category. Once they have given their irrevocable option for having individual connections and installed their own 11 KV sub station , they were required to apply individually and Electricity Department was required to sanction individual connections. The plea of the Electricity Department they have released the connections in compliance to CGRF order to avoid levy of penalty is not in order. Ld CGRF has only order to release connection pending since 2017 but codal provisions of the Regulations needs to be adhered to by the Electricity Department. This action of giving individual connections in the name of Vidya Vikas Housing Society rather than individual allottees will leads to loss of tariff due to benefit of lower slab rate.



(H) **DECISION**

- (i) For the reasons discussed above, the appeal of the Appellant and application for intervention filed by Sh Rajindra Siddarkar and others are hereby dismissed with no order as to costs, being devoid of merit. The order in Complaint No-11/2021/263 dated-8/3/2021 and Review Order No-1/2021 dated 26/03/2021. passed by Learned CGRF-Goa is upheld.
- (ii) Since the individual connections are required to be sanctioned and released in the name of individual allottees, Electricity Department is directed to effect the Change of name as applied by the individual allottee of Vidya Vikas Co-operative Housing Society as per Regulations, within a period of Two months from the issue of this order by email, failing which the connection is liable to be disconnected.
- (iii) The Intervenor- Vidya Vikas Co-operative Housing Society is directed to ask its allottees to apply for individual connections/Change of name as per Regulations, within a period of Two months from the issue of this order by email, failing which the connection is liable to be disconnected.
- (iv) It is made clear that release of individual electricity connection to the allottees of Vidya Vikas Co-operative Housing Society **shall be only for electricity supply to the premises occupied by the consumer/allottee and shall not be treated as having rights or title over the premises**, which will be subject to pending court cases, if any.
- (v) In case, the Appellant, Inventors 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.
- (vi) The Electricity Department/Licensee should submit a compliance report to the office of Ombudsman on the action taken in this regard within **70 days** from the issuance of this Order by email as well as by post.
- (vii) Non-compliance of the orders of the Ombudsman by the Electricity Department/Licensee shall be deemed to be a violation of Regulations and shall be liable for appropriate action by the Hon'ble Joint Regulatory Commission under the provisions of the Electricity Act, 2003.
- (viii) The appeal is disposed of accordingly.


23/7/2021

(M.P. Singh Wasal)

Electricity Ombudsman

For Goa & UTs (except Delhi)

Dated 23.07.2021