



A consumer is the important visitor on our premises.
He is not dependent on us. We are dependent on him.
-Mahatma Gandhi

TAMIL NADU ELECTRICITY OMBUDSMAN

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Before The Tamil Nadu Electricity Ombudsman, Chennai

Present : Thiru. N.Kannan, Electricity Ombudsman

A.P.No. 23 of 2022

Thiru N.Shankar,
S-2, Anantham Flats,
Plot No.1, Gandhi Street,
Mugappair East,
Chennai – 600 037.

. Appellant
(Thiru N.Shankar and
Thiru R.Arumugam & Miss A.Priyadarshini, Advocates)

Vs.

The Executive Engineer/O&M/Ambattur,
Chennai Electricity Distribution Circle/West,
TANGEDCO,
110/33-11KV Ambattur Indl. Estate,
3rd Main Road SS campus,
AMBIT IT PARK Road,
Ambattur Indl. Estate,
Chennai-600 058.

. . . . Respondent
(Tmt.J. Vijaya Parvathi, EE/O&M/ Ambattur)

Petition Received on: 09-03-2022

Date of hearing: 20-07-2022

Date of order: 02-08-2022

The Appeal Petition received on 09.03.2022, filed by Thiru N.Shankar, S-2, Anantham Flats, Plot No.1, Gandhi Street, Mugappair East, Chennai – 600 037 was registered as Appeal Petition No. 23 of 2022. The above appeal petition came up for

hearing before the Electricity Ombudsman on 20.07.2022. Upon perusing the Appeal Petition, Counter affidavit, written argument, and the oral submission made on the hearing date from both the parties, the Electricity Ombudsman passes the following order.

ORDER

1. Prayer of the Appellant:

The Appellant has prayed to set aside the impugned order passed by the CGRF and direct the Respondent to effect service connection.

2.0 Brief History of the case:

2.1 The Appellant had applied for a new single-phase domestic service connection online for his new residential flat located at Mugappair.

2.2 Based on the application, the site was inspected by AE/O&M/JJ Nagar Central on 1.10.2021 wherein he found two blocks of building combined and observed there were totally 12 units.

2.3 The Appellant claimed that as per the planning approval and title documents, the total area of plot no 1 is 2115 sq.ft. i.e. 197.84 sq.m., which is far below the stipulated area of 750 sq m., hence completion certificate is not mandatory.

2.4 Since the respondent sought the completion certificate to effect a new service connection, the appellant had filed a petition before CGRF of Chennai Electricity Distribution Circle/West on 16.10.2021.

2.5 The CGRF of Chennai EDC/West had issued an order CGRF/CEDC/W/No.E.144/21 dated 01.02.2022. Aggrieved over the order, the appellant had preferred this appeal petition before the Electricity Ombudsman.

3.0 Orders of the CGRF :

3.1 The CGRF of Chennai Electricity Distribution Circle/West issued its order on 01.02.2022. The relevant portion of the order is extracted below: -

“Findings

Hence, request of the petitioner to provide permanent new single phase electricity connection without furnishing the completion certificate is not feasible of compliance as per rules in force.

With this, the petition is disposed of.”

4.0 Hearing held by the Electricity Ombudsman:

4.1 To enable the Appellant and the Respondent to put forth their arguments in person, a hearing was conducted on 20.07.2022.

4.2 On behalf of the Appellant, Thiru R.Arumugam & Miss A.Priyadarshini, Advocates having their office at No 58 Gandhi Main Road T.V.Nagar Thirumangalam, Anna Nagar Chennai-40 attended the hearing and put forth their arguments and on behalf of the Respondents, Tmt J. Vijaya Parvathi, EE/O&M/ Ambattur, Chennai Electricity Distribution Circle/West was heard.

4.3 As the Electricity Ombudsman is the appellate authority, only the prayers which were submitted before the CGRF are considered for issuing orders. Further, the prayer which requires relief under the Regulations for CGRF and Electricity Ombudsman, 2004 alone is discussed hereunder.

5.0 Arguments of the Appellant :

5.1 The Appellant has stated that he had purchased all that piece and parcel of vacant land bearing Door No. 20-A, Plot No.1, (Northern Portion), Gandhi Street, Mugappair, Chennai - 600037 measuring about the extent of 381 Sq.ft of undivided share out of the total extent of 2115 sq.ft comprised in Old S. No. 475/2B & new T.S. No. 76 of Mugappair village, Ambattur Taluk by way of the sale deed executed on 11.12.2020 by Mr. T. Prithivi through his General Power of Attorney Mrs. Jeyanthi and registered as Doc. No. 5055/2020 from the files of SRO Konnur.

He also entered into a construction agreement on 11.12.2020 for the construction of a flat measuring about 850 Sq. ft. on the second floor in terms of a planning permit bearing No.PPAWDC No.07/01577/2019 & Building Permission No. BAWDC No. 07/01884 dated 02-05-2019 wherein approval was accorded by the

competent authority to construct a total of six dwelling units together with an office space on the ground floor for the developer and the same was registered as Doc. No. 5054/2020 from the files of SRO Konnur.

5.2 The Appellant has stated that the major portion of construction work was completed and the dwelling unit was handed over to the Appellant without electricity connection by the builder as early as 16-08-2021. However, the builder could not complete the entire work and obtain a completion certificate from the competent authority as he was arrested and remanded to judicial custody for an offense alleged to have been committed by her in another project. The property has been assessed to tax by the Greater Chennai Corporation as early as 26.04.2021 under Bill No.07-092-16405-000 and he has been regularly paying the tax though he has not yet occupied the property for want of basic amenity of electricity. However, water connection and drainage connection have been provided by the CMWSB.

5.3 The Appellant has stated that he made an online application for single phase connection on 25.09.2021 and paid the prescribed charges of Rs. 2,818/- as demanded by the Respondent authorities and submitted hard copies of all required documents on 27.9.2021 that were verified by the concerned officials on 1.10.2021 and site inspection was also done & SMS was also received for the same and it was orally assured that the connection would be effected on 8.10.2021 and online application status was updated as "Documents verified, Site inspection completed, estimation prepared and sanction under process. Further, an email was received on 8.10.2021 to pay the Demand notice for New Service Connection of Rs.5,810/- and the same could not be paid as the online payment option was not enabled by concerned authorities. The online status was updated as "Service connection estimate sanctioned and demand for charges raised and pending for payment. When the appellant approached the concerned jurisdiction AE office on 8.10.2021, he was told that the connection was put on hold on account of receipt of objection from one Mr. T. Prithvi of Plot No.2 of Anandam Flats. The Appellant has stated that he has requested a copy of such objection but the same was not provided. Further appellant tried to explain to the concerned AE that Plot No.1 is

independent of Plot No.2 and the said Prithvi has no right or interest over plot No.1 and also the approval granted by the Chennai Corporation for Building Plan is also independent of Plot No.1 without any connection or whatsoever with the Plot No.2 and the objection if any received with a vested interest is not sustainable in the eyes of law.

5.4 The Appellant has stated that the online application status came to be edited or amended with vested interest and shown as service connection is put on hold for want of Completion certificate.

5.5 The Appellant has stated that he is constrained to challenge the CGRF impugned order dated 01.02.2022 on the following among other grounds;

a. The impugned order passed by the CGRF on 01-02-2022 in the above consumer complaint is contrary to justice, equity, and established provisions of law.

b. The CGRF was pleased to render its finding as "As per Memo No. CE/Comm/SE/Comm/EE3/AEE2/F.Plg/D139/2020 dt. 04-07-2020.

"6(a) Except residential Building up to 12m height not exceeding 3 dwelling units or 750 Sq. M and all types of Industrial Buildings, all other buildings require completion certificates before effecting electricity service connection(s). For the exempted buildings, the intending consumer shall not be insisted to produce a planning permit and completion certificate for effecting electricity service connections.

But the CGRF failed to the factual aspect that the building for which the service connection is sought is only by a flat owner of a single flat wherein the height of the building is much less than the prescribed height of 12 M and also the total extent of land is just 197.84 Sq.M against the prescribed limit of 750 Sq.M. Furthermore the respondent authorities failed to either measure the property or verify records placed before them to ascertaining the height & extent of land to grant benefits to the appellant in terms the policy on the subject. Hence the impugned order is liable to be set aside.

c. The CGRF authority failed to appreciate the fact that the appellant has produced all documents that are mandated as per the application. The law is well settled that the authorities are bound by the notification as mentioned in their

application form and no fresh condition can be imposed beyond the conditions mentioned in the application form/prospectus. Hence the respondent authorities' order of insisting on production for completion certificate by an individual buyer in a flat is not sustainable and the same is liable to be set aside.

d. The respondent authorities failed and neglected to appreciate the hardships and difficulties faced by the appellant for want of electricity connection even after establishing the title over the property including property assessment by the Chennai Corporation and payment of the same by the appellant for a considerable period.

5.6 The appellant during the hearing argued that Memo No. CE/Comm/SE/Comm/EE3/AEE2/F.Plg/D139/2020 dt. 04-07-2020 specifically mentioned that for effecting service, completion certificate is not required for building up to 12 m height and 3 dwelling units or 750 sq.m.

5.7 The appellant claimed that his Flat on the 2nd floor measuring 850 sq. ft. with an undivided share of 381 sq ft in plot 1 of 2115 sq ft in old s.no. 475/2B and new T.S of 76 of Mugappir Village, Ambattur Taluk is having 197.84 sq.m. against the prescribed limit of 750 sq .m and it should not be viewed as not more than three dwelling units however it should be viewed as less than 750 sq.m.

5.8 The Appellant has prayed to set aside the impugned order passed by the CGRF and direct the Respondent to sanction the service connection to the appellant and pass such further or other orders as deemed fit and proper and thus render justice.

6.0 Arguments of the Respondent:

6.1 The respondent has submitted that the petitioner Thiru N.Shankar has applied for a new single-phase domestic service connection through the online portal of TANGEDCO on 28.09.2021 for the new residential flat with the payment of Rs. 2,818/-, along with the necessary required documents such as the sale deed and plan copy of the building.

6.2 The respondent has submitted that during the inspection of the site by AE/O&M/JJ Nagar Central on 01.10.2021, he found two blocks of residential buildings combined with 6 residential flats in each block and a total of 12 units.

6.3 The respondent has submitted that during the site inspection Thiru. T. Prithvi land owner of the above said premises objected to effect service connection claiming that the service connection should not be effected without his knowledge as the completion certificate was not obtained by the builder. Further, the respondent has stated that the approved planned copy issued by CMDA, Zone 7 it has been mentioned that completion certificate is mandatory for availing service connection from TNEB and CMWSSB.

6.4 The respondent has submitted that as per the TANGEDCO circular Memo No. CE/Comml /SE/Comml/ EE3/AEE2/F.Plg. Per/D-139 /2020, dt.04.07.2020 the completion certificate is mandatory for the building with more than 3 dwelling units.

6.5 The respondent has submitted that based on the TANGEDCO CE/Commercial instructions dt 4.7.2020, the Completion certificate was requested from the petitioner by AE/O&M /JJ Nagar Central vide letter No.D.236, dt. 11.10.2021 and the respondent had put the application on hold for not having submitted the completion certificate required for the building as per Memo No: CE/Comml /SE /Comml /EE3/AEE2 /F.Plg. Per/D.139 /2020, dt. 04.07.2020 and requested to direct the petitioner to furnish the completion certificate from the competent authority for getting service connection.

7.0 Findings of the Electricity Ombudsman:

7.1 I have heard the arguments of both the Appellant and the Respondent. Based on the arguments and the documents submitted by them, the following conclusion is arrived.

The appellant has the following grievances before this Electricity Ombudsman.

1) The Appellant claimed that as per the planning approval and title documents, the total area of plot No. 1 is 2115 sq. ft. i.e. 197.84 sq.m which is far below the stipulated area of 750 sq. m. Hence, completion certificate is not mandatory.

2) To set aside the impugned order passed by the CGRF and to sanction the service connection.

8.0 Findings of the first issue:

8.1 The appellant has stated that his Flat on the 2nd floor measuring 850 sq ft with an undivided share of 381 Sq.ft out of the total extent of 2115 sq.ft comprised in Old S.No.475/2B & new T.S. No. 76 of Mugappair village in Ambattur Taluk. The Appellant has further stated that the major portion of construction work was completed and the dwelling unit was handed over to the Appellant without electricity connection by the builder as early as 16-08-2021. However, the builder could not complete the entire work and obtain a completion certificate from the competent authority.

8.2 Memo No. CE/Comm/SE/Comm/EE3/AEE2/F.Plg/D139/2020 dt. 04-07-2020 specifically mentioned that for effecting service, completion certificate is not required for building up to 12 m height and 3 dwelling units or 750 sq.m. The building for which the service connection is sought is only by a flat owner of a single flat wherein the height of the building is much less than the prescribed height of 12 metre and constructed area is having 197.84 sq.m. against the prescribed limit of 750 sq .m and it should not be viewed as not more than three dwelling units and it should be viewed as less than 750 sq.m.

8.3 The respondent has submitted that the petitioner Thiru N.Shankar has applied for a new single-phase domestic service connection through the online portal of TANGEDCO on 28.09.2021 for the new residential flat with the required documents such as the sale deed and plan copy of the building. On site by AE/O&M/JJ Nagar Central on 01.10.2021, he found two blocks of residential buildings

combined with 6 residential flats in each block and a total of 12 units. As per the approved plan copy issued by CMDA, Zone 7 it has been mentioned that completion certificate is mandatory for availing service connection from TNEB and CMWSSB.

8.4 Further, as per the TANGEDCO circular Memo No. CE/Comml/ SE/ Comml/EE3/AEE2/ F.Plg.Per /D.139/2020, dt.04.07.2020 the completion certificate is mandatory for the building with more than 3 dwelling units. The Completion certificate was requested from the petitioner by AE/O&M /JJ Nagar Central vide letter dt.11.10.2021 and had put the application on hold for not having submitted the completion certificate and prayed to direct the appellant to furnish the completion certificate from the competent authority for getting service connection.

8.5 From the foregoing paras, the issue relates to furnishing of completion certificate from the competent authority so as to provide electricity supply for the non-exempted buildings. In this regard, I would like to refer Regulation 27 of TNE Distribution codes. The relevant paras are reproduced below;

“27. Requisitions for Supply of Energy:

The provision regarding the duty of Licensee as detailed in section 43of the Act to supply electricity on request is reproduced below:

(1) Save as otherwise provided in this Act, every distribution licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply:

Provided that where supply requires extension of distribution mains, or Commissioning of new sub-stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or Commissioning or within such period as may be specified by the Appropriate Commission.

Provided further that in case of a village or hamlet or area wherein no provision for supply of electricity exists, the Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.

Provided that the licensee will refuse to supply electricity to an intending consumer who had defaulted payment of dues to the licensee in respect of any other service connection in his name.

*Explanation:- For the purposes of this sub-section, “application” means the application complete in all respects in the appropriate form, as required by the distribution licensee, along with documents showing payment of necessary charges and **other compliances.**”*

11) *The requirements notified by Authority through regulations shall be complied with for availing Service connections.*

Explanation:- *For removal of doubts, it is hereby declared that the expression “other compliances” occurring in the Explanation to section 43(1) of the Act as reproduced in sub-regulation (1) shall mean the documents mentioned in the Forms specified in ANNEXURE III to this Code and any decree or order or judgment of Courts.”*

8.6 On a plain reading of the above, it is noted that application means, the application complete in all respects in the appropriate form, as required by the distribution licensee, along with documents showing payment of necessary charges and other compliances. Further, the requirements notified by Authority through regulations shall be complied with for availing Service connections. Also the expression “other compliances” occurring in the Explanation to section 43(1) of the Act as reproduced in sub-regulation (1) shall mean the documents mentioned in the Forms specified in ANNEXURE III to this Code and any decree or order or judgment of Courts.

8.7 The respondent in her arguments has stated that on-site inspection, it was found that there were six dwelling units in each block totaling 12 units in both blocks. The respondent has further stated that as per the approved plan copy issued by CMDA, Zone 7 it has been mentioned that completion certificate is mandatory for availing service connection from TNEB and CMWSSB. As the respondent argued that the Completion certificate is mandatory to provide service connection to the appellant's Flat, I would like refer the relevant paras of CE Comml. Memo No.CE/Comml/SE/Comml/EE3/AEE2/FPIg.per/D.139/2020, dt.04.07.2020 which is reproduced below:

“2. The Hon’ble Division Bench of High Court of Madras in its order dated 09-01-2018 in W.P. No. 14520 of 2017 had directed the utilities including TANGEDCO to follow the guidelines stipulated by the Government of Tamil Nadu.

3. While so, the Government of Tamil Nadu, in G.O. Ms. 18, Municipal Administration and Water Supply (MA.I), dated 04.02.2019, notified the Tamil Nadu Combined Development and Building Rules, 2019 and the same came into force with effect from 04-02-2019.

4. Rule 20 of the said Rules, 2019, states that for all buildings except residential building upto 12m in height not exceeding 3 dwelling units or 750 sq. m and all type of Industrial buildings, the applicant or owner or Power of Attorney Holder or Registered Developer and any other Person who is acquiring interest shall submit a completion report to obtain Completion Certificate, certifying that the building has been completed as per the approved plan, from the competent authority that has issued Planning Permit before getting service connections such as electric power connection, water supply sewerage connection.”

6. In this connection, the instructions were issued vide reference (5) cited based on the Tamil Nadu Combined Development and Building Rules, 2019. As there was a deviation from the said Rules, 2019, in the above instructions, the same is now withdrawn. In the light of the position stated in paragraphs 2 to 5 above, the following revised instructions are issued for strict adherence throughout the State, which will supersede all earlier instructions including based on the orders of the Hon'ble High Court, Madras:

(a) Except residential building upto 12m in height not exceeding 3 dwelling units or 750 sq.m and all type of Industrial buildings, all other buildings requires completion certificate before effecting electricity service connection(s). For the exempted buildings, the intending consumer shall not be insisted to produce Planning Permit and Completion Certificate for effecting electricity service connections.

(b) While registration of application for permanent electricity supply, except as far as the exempted buildings stated above, the application shall be accompanied with planning permit.

(c) In view of the provisions contained in section 175 of the Electricity Act, 2003, (Provisions of this Act to be in addition to and not in derogation of other laws), as far as the buildings coming under non-exempted category are concerned, on completion of the construction of the building, the temporary electricity service connection provided for construction purpose has to be disconnected and the permanent electricity service connection(s) shall be provided on receipt of the completion certificate as stated above. However, this will not apply to the exempted buildings and as such, for exempted buildings alone, the provisions contained in Regulation 39 of the Tamil Nadu Electricity Distribution Code, 2004 shall be followed.”

8.8 As per the above provisions except residential building upto 12m in height not exceeding 3 dwelling units or 750 sq.m and all type of Industrial buildings, all other buildings requires completion certificate before effecting electricity service

connection. That is for the building that exceeds 12 meter in height or 3 dwelling units or 750 sq.m area requires the completion certificate as mandatory for providing electricity service connection.

8.9 In the case on hand, the appellant mentioned that his flat is in second floor of the building measuring 850 sq ft with an undivided share of 381 Sq.ft out of the total extent of 2115 sq.ft which has been completed and handed over to him on 16.08.2021 without electricity connection. Further, the appellant has also admitted that the builder could not complete the entire work and obtain a completion certificate from the competent authority. However, the appellant treats his flat as a separate building and argued that the rules provided in Tamil Nadu Combined Development and Building Rules, 2019 issued vide G.O.(Ms) No.18, Municipal Administration And Water Supply (MA.I) department dated 04.02.2019 is not applicable since his flat is within permission limits.

8.10 In this regard I am of the view that the appellant building is not an independent building and is part and parcel of one of the flat in the building on the 2nd floor measuring 850 sq ft with an undivided share of 381 Sq.ft out of the total extent of 2115 sq.ft. Further as per the building permission No.BA/WDC No.07/01884, dated 02.05.2019, the approval was accorded by the competent authority to construct a total of six dwelling units together with office space on the ground floor for the developer and the same was registered as Doc.No.3776/2020 at SRO/Konnur.

8.11 With the above findings, I am of the considered view that the completion certificate is mandatory for considering the appellant's application for effecting new service connection since the said building is exceeding 3 dwelling units.

9.0 Findings on the second issue:

9.1 The Appellant has prayed to set aside the impugned order passed by the CGRF and direct the Respondent to effect service connection.

9.2 As per my findings in para 8.0, except residential building upto 12m in height not exceeding 3 dwelling units or 750 sq.m and all type of Industrial buildings, all other buildings requires completion certificate before effecting electricity service connection by the intending consumers from TANGEDCO. Hence the prayer of the appellatant to set aside the CGRF order is not feasible.

10.0 Conclusion :

10.1 As per my findings in para 8 & 9, I could not interfere with the orders of CGRF, accordingly, the appeal petition is disposed of.

10.2 With the above findings AP No. 23 of 2022 is finally disposed of by the Electricity Ombudsman. No costs.

(N. Kannan)
Electricity Ombudsman

“நுகர்வோர் இல்லையேல், நிறுவனம் இல்லை”
“No Consumer, No Utility”

To

1. Thiru N.Shankar,
S-2, Anantham Flats,
Plot No.1, Gandhi Street,
Mugappair East,
Chennai – 600 037.

2. The Executive Engineer/O&M/Ambattur,
Chennai Electricity Distribution Circle/West,
TANGEDCO,
110/33-11KV Ambattur Indl. Estate,
3rd Main Road SS campus,
AMBIT IT PARK Road,
Ambattur Indl. Estate,
Chennai-600 058.

3. The Superintending Engineer,
Chennai Electricity Distribution Circle/West,
TANGEDCO,
Thirumangalam 110/33/11 KV SS Complex,
Anna nagar, Chennai - 600 040.

- By Email

4. The Chairman & Managing Director,
TANGEDCO,
NPKRR Maaligai, 144, Anna Salai,
Chennai -600 002. – By Email

5. The Secretary,
Tamil Nadu Electricity Regulatory Commission,
4th Floor, SIDCO Corporate Office Building,
Thiru-vi-ka Industrial Estate, Guindy,
Chennai – 600 032. – By Email

6. The Assistant Director (Computer)
Tamil Nadu Electricity Regulatory Commission,
4th Floor, SIDCO Corporate Office Building,
Thiru-vi-ka Industrial Estate, Guindy,
Chennai – 600 032. – **For Hosting in the TNERC Website**