



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. 49 of 2023

Thiru P.Muniyan,
463, 4th Cross Street,
Water Board Colony, Fairlands – PO,
Salem – 636 016.

. . . .Appellant
(Thiru P.Muniyan)

Vs.

The Executive Engineer/O&M/West-Salem,
Salem Electricity Distribution Circle,
TANGEDCO,
Valluvar Nagar, Annathanapatti,
Salem – 636 002.

. . . . Respondents

(Thiru R. Rajavelu, EE/O&M/West-Salem)

Petition Received on: 03-07-2023

Date of hearing: 13-09-2023

Date of order: 14-09-2023

The Appeal Petition received on 03.07.2023 filed by Thiru P.Muniyan, 463, 4th Cross Street, Water Board Colony, Fairlands – PO, Salem – 636 016 was registered as Appeal Petition No. 49 of 2023. The above appeal petition came up for hearing before the Electricity Ombudsman on 13.09.2023. 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 effect new service connection for his industrial and residential building without insisting for completion certificate.

2.0 Brief History of the case:

2.1 The Appellant has applied for new service connection for two unit in ground floor for industrial purpose and two units in second floor for his dwelling unit through online.

2.2 Based on his application, the site was inspected and found that there is no industrial purpose in his building. The petitioner's applications were rejected due to the reason for not submitting completion certificate.

2.3 Not satisfied with the reply of the Respondent, the appellant filed a petition before CGRF of Salem Electricity Distribution Circle on 01.03.2023. The CGRF of Salem Electricity Distribution Circle issued an order on 29.03.2023. Aggrieved over the CGRF order, the appellant has preferred this appeal petition before the Electricity Ombudsman.

3.0 Orders of the CGRF :

3.1 The CGRF of Salem Electricity Distribution Circle issued its order on 29.03.2023. The relevant portion of the order is extracted below :-

"Order:

சொர்ணபுரி பிரிவின்குட்பட்ட 243/1A காண்வெண்ட் ரோடு, மிட்டாபுதூர், சேலம் என்ற முகவரியில் மனுதாரர் கட்டியுள்ள கட்டுமானத்தில் தரைதளம் முழுவதும் கட்டிடத்தின் தரைதளத்தில் வீட்டு அல்லாத மூன்று வணிக உபயோகத்திற்கும், முதல் தளத்தில் ஒரு வணிக பயன்பாடும் மற்றும் ஒரு வீட்டு பயன்பாட்டிற்கும், இரண்டாம் தளத்தில் மூன்று வீட்டு பயன்பாட்டிற்கும் உபயோகம் செய்யும் வகையில் கட்டப்பட்டுள்ள ஒரே கட்டிடமாக உள்ளதாக வாரியத் தரப்பில் தெரிவிக்கப்பட்டது. எனவே வணிக பயன்பாடும் வீட்டு பயன்பாடும் ஒரே கட்டிடத்தில் வருவதாலும், மூன்று வீட்டு பயன்பாட்டிற்கு மேல் உள்ளதாலும் Memo.No.CE/comml/SE/Comml

/EE3/AEE2/F.Plg.Per/D139/2020 dt. 4-7-2020 என்ற வாரிய உத்தரவின்படி கட்டிடப் பணி நிறைவு சான்றிதழ் (Building completion certificate) பெற்று அளிக்கும்பட்சத்தில் மனுதாரர் கோரியுள்ள மூன்று வீட்டு மின்இணைப்புகளும் வழங்கலாம் எனத் தெரிவித்து மேற்படி மனுவானது தள்ளுபடி செய்யப்படுகிறது."

4.0 Hearing held by the Electricity Ombudsman:

4.1 To enable the Appellant and the Respondent to put forth their arguments, a hearing was conducted on 13.09.2023 through video conferencing.

4.2 The Appellant Thiru P.Muniyan attended the hearing and put forth his arguments.

4.3 The Respondent Thiru R. Rajavelu, EE/O&M/West-Salem of Salem EDC attended the hearing and put forth his arguments.

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

5.0 Arguments of the Appellant:

5.1 The Appellant Thiru P.Muniyan has stated that he has constructed the building in three Floors, the total height of the above said building is 9.5 Meter i.e below 12 meters and total buildup area to an extent of 351 Sq.m. i.e. below 750 Sq.m. and the ground floor comprises of two units and thereby leased out one unit to one Mr.Sathishkumar for Bakery Retail Trade - NIC Code 47214- SSI unit and other unit leased out to one Mr. Rajasundar for the activities of Ayurvedha Practitioners NIC Cod 86901- SSI Unit.

5.2 The Appellant has stated that the first floor comprises of one unit, for which proposed for one of the industrial activities, but even till now kept vacant. The second floor comprises of two dwelling units which are meant for the dwelling

purpose of the occupier and employee of the SSI unit at ground floor. The entire building is not regularly electrified, hence applied for new power connection dated 19.02.2023 through online for two industrial service under Tariff-III B for the two SSI Units in ground floor and two residential service for the dwelling units in second floor and the registration numbers are as below:-

- a) 200044550223411-Domestic Residential - dated 19.02.2023
- b) 200044550223412-Domestic Residential - dated 19.02.2023
- c) 200044550523926-Tariff-III B-dated 02.05.2023
- d) 2000445505231036-Tariff-III B-dated 16.05.2023

5.3 The Appellant has stated that on 29-03-2023 the A.E/Sornapuri issued defect notice to him stating that the same building consists of commercial and domestic usage and in the defect notice dated 22-5-2023 the A.E.Sornapuri has stated that same building with more than three houses. Thereafter he has explained the A.E/Sornapuri and requested to give power connection but the A.E/Sornapuri cancelled all the four applications on 26.06.2023 stating the reason that completion certificate not submitted. There is no commercial activity and there is no more than three houses in the said building. A.E.Sornapuri has not inspected his building properly and the act of the A.E.Sornapuri is intentionally wrong with malafide intention and has not followed the Circular Letter No.50977/2018/DP3 dated 08.09.2020 of Commissioner of Municipal Administration.

5.4 The Appellant has stated that the above circular stating that the residential building below the height of 12 meters and with not more than 3 dwelling units are exempted from completion certificate and also the Industrial buildings are totally exempted from completion certificate, but the above building is below the height of 12 meters ie., 9.5 meters.

5.5 The Appellant has stated that the Corporation authority, Salem duly inspected the building and after confirming the completion of the construction work assessed the tax, vide assessment No: 049/005/906542 and allotted the Door No: 243/1-3 for the residential building and assessed the tax, vide assessment No:

049/005/906541 and allotted the Door No: 243/1-2 for the industrial building. Thereby Corporation authority has recognized the completion of construction work of the above said building and recognized the same as two different buildings.

5.6 The Appellant has stated that even though both the buildings are combined together one above another, the building comes under the exemption limit fixed by the Commissioner of Municipal Administration, in their circular No.50977/2018/DP3 dated 08.09.2020.

5.7 The Appellant has stated that as per the circular No.50977/2018/DP3 dated 08.09.2020 issued by the Commissioner of Municipal Administration, the above said building is exempted from completion certificate and should be given the electricity connection to his building. He further submit that it is a basic amenities and the above building is constructed as per rules, hence he is entitled to get electricity connection for the above said building. The Appellant has stated that the building in Door No: 243/1 is entirely different and separate building and constructed 20 years back.

5.8 The Appellant has stated that the building in Door No: 243/1 is old building, constructed 20 years back. In the said old building Ground floor has commercial EB service connection, the first floor has residential EB service connection. The dwelling unit in the second floor is not properly Electrified. So he had applied for the EB power connection vide ref NO: 200044550223387 but the AE/Sornapuri simply cancelled his application for want of completion certificate.

5.9 The Appellant has stated that the EE/Salem west in his letter No: 3/23-24 dt 23.05.2023 has Stated that for buildings prior to 4.2 2019 C.C not necessary. But the above said old building is constructed prior to 04.02.2019. So, hereby request the authority to direct the AE/Sornapuri to give power connection for the dwelling Unit in the Second floor of the old building and thus render justice.

5.10 The Appellant has requested to direct the AE/Sornapuri to give electricity connection to his industrial building at door No: 243/1-2, and residential building at door no. 243/1-3 Convent Road, Mittapudar, Salem which are exempted from completion certificate and thus render justice.

6.0 Counter submitted by the Respondent:

6.1 The Respondent has submitted that the petitioner statement being false, but stating that the petitioner has constructed the ground floor comprising of two units for industrial purpose, the first floor comprises of one units (big hall) for industrial purpose and the second floor comprises of two units for dwelling purpose.

6.2 The Respondent has submitted that the petitioner has already constructed two floors as ground floor and first floor. The ground floor is being used for commercial shop and he has obtained one commercial service No.455 004 594/Tariff V/dated 20.07.2001 and in first floor one domestic service No. 455 004 593/Tariff IA/dated 20.07.2001.

6.3 The Respondent has further submitted that later on now the Petitioner has additionally constructed in the same building two more commercial purpose units in the ground floor, one commercial purpose unit in the first floor (already in the adjacent side of the first floor one domestic usage availed sc no.455 004 593) and two dwelling purpose units in the second floor. It is not correct that he has applied two domestic purpose service connections on 19.02.2023. He has actually applied for three domestic purpose service connections through application Nos. 200044550223387 dated 17.02.2023, 200044550223411 dated 19.02.2023 and 200044550323412 dated 19.02.23 respectively by hiding the fact that there are three commercial purpose units in the ground floor, one domestic purpose unit and one commercial purpose unit in the first floor. Later on the Petitioner has applied two more application through 200044550523926 dated 02.05.2023 and 2000445505231036 dated 16.05.2023 by stating as industrial purpose.

6.4 The Respondent further stated that based on his application, the site was inspected and found that there is no industrial purpose with machineries as requested by the Petitioner. It is also submitted that the Petitioner mentioned Bakery retail trades and activities of Ayurvedha Practitioners are being categorized as commercial activities as per TNERC tariff order dated 09.09.2022. The petitioner uploaded online Udyam Registration Certificate issued by Ministry of Micro, Small and Medium Enterprises to claim as industrial purpose also classified in the activity as trading and services which are all classified under commercial tariff. Hence, the applications made by the Petitioner under Tariff III B will not be applicable and the Petitioner can make an application only for Tariff V and there is no industrial activity as mentioned by the petitioner.

6.5 The Respondent has submitted that as per the Government of Tamil Nadu, in G.O.Ms.No.18, Municipal Administration and Water Supply(MA.I), dated 04.02.2019, notified in the Tamil Nadu Combined Development and Building Rules 2019 in sub-rule (20) of Rule(1) of the said Rules 2019, it is specifically stated that "for all buildings except residential buildings upto 12m in height not exceeding 3 dwelling units or 750 sqm 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 in form 5 along with form 6,7 and 8 in annexure XIV to obtain Completion certificate, certifying that the building has been completed as per approved plan from the competent authority that has issued Planning permit before getting service connection such as electricity power connection, water supply sewerage connection. These service connection shall be given by the service provider to these buildings only after the production of the Completion Certificate".

6.6 The Respondent has submitted that the Petitioner has already obtained one domestic and one commercial service. Now he has constructed two more dwelling portion units (total 3 units) and three more commercial portion units (total seven units). Hence the above referred Rule (Government of Tamil Nadu, in G.O.Ms.No.18, Municipal Administration and Water Supply (MA.I), dated

04.02.2019, notified in the Tamil Nadu Combined Development and Building Rules, 2029) is not applicable to the Petitioner's building since four commercial and three domestic units are there. I further submit that the Petitioner has not produced the completion certificate from the competent authority as per the Tamil Nadu Combined Development and Building Rules 2019. Hence, all his five applications for new service connections were rejected due to the reason that the Petitioner has not produced the Completion Certificate.

6.7 The Respondent has submitted that the Petitioner has already approached the Consumer Grievance Redressal Forum (CGRF), Salem and after due enquiry and giving an opportunity to the Petitioner, the Consumer Grievance Redressal Forum by its order dated 29.03.2023 had dismissed his application for the reason that as per Memo No. CE/Comml/SE/Comml/EE3/AEE2/F.PLG.PER/D- 139/20 dated 04.07.2020 the Petitioner has to provide the Building Completion Certificate and if the same has been provided by the Petitioner new service connection could be granted. I state that the Petitioner after approaching this respectable forum on 01.07.2023 and without waiting the respectable forum order, he has filed a Writ Petition vide WP NO.21011 of 2023 dated 07.07.2023 in the Hon'ble High Court, Madras in a hurried manner and the same is being under pending disposal.

6.8 The Respondent has submitted that it is not correct that as per the circular No. 50977/2018/DP3 dated 08.09.2020 issued by the Commissioner of Municipal administration, the Petitioner's building is exempted from completion certificate. The Petitioner has actually constructed three dwelling portion units and four commercial portion units in the same building. Hence the above referred rule is not applicable to the Petitioner's building since four commercial and three domestic units are there. I further submit that the Petitioner had not submitted building approval nor the Completion Certificate from the competent authority and has not submitted any correspondence from the competent authority to show that the building is under exempted category as applicable to his buildings and also as Completion Certificate exemption eligible to his buildings.

6.9 The Respondent has further submitted that the TANGEDCO is ready to give service connections to the Petitioner if he produces the completion certificate from competent authority as per Government of Tamil Nadu, in G.O.Ms.No.18, Municipal Administration and Water Supply (MAI), dated 04.02.2019, notified by the Tamil Nadu Combined Development and Building Rules 2019.

6.10 The Respondent has submitted that the Petitioner's building does not qualify as per G.O. Ms.No.18, Municipal Administration and Water Supply (MA.1), dated 04.02.2019 as the buildings are not completely residential, exception applies only to residential and industrial. There is no production activity taking place in the Petitioner's building and hence the term 'Industrial' cannot be applied to the Petitioner's building. The Petitioner also admits that it is partly residential and partly commercial and not exclusively residential and the meaning of the word 'commercial' is different from 'industrial'. To show the building as falling under industrial, some production activity must take place.

6.11 The Respondent has submitted that the Petitioner's application falls under non exempted category as per per G.O. Ms.No.18, Municipal Administration and Water Supply (MA.1), dated 04.02.2019, he is not entitled for any relief as prayed for in the above appeal petition.

6.12 The Respondent has submitted that the petitioner had filed a Writ Petition vide WP No: 21011 of 2023 dated 07.07.2023 even after approaching this respectful forum vide representation dated 01.07.2023 his representation need not be entertained as per TNERC Regulation for consumer Grievance Redressal Forum vide Regulation 17(d) stating that the complaint does not pertain to the same subject matter for which any proceedings before any court is pending or a decree or final order has already been passed by any competent court.

6.13 The Respondent has prayed to dismiss the appeal petition and thus render Justice.

7.0 Findings of the Electricity Ombudsman:

7.1 I have heard the arguments of both the Appellant and the Respondent.

7.2 The Appellant has applied for new power connection through online for two industrial service under Tariff-III B for the two SSI Units in ground floor and two residential service for the dwelling units in second floor. The A.E/Sornapuri has issued a defect notice stating that the same building consists of commercial and domestic usage and thereafter cancelled all the four applications stating the reason that completion certificate not submitted. Aggrieved over the action of the licensee, the Appellant prayed before the CGRF and the CGRF also rejected the prayer of the Appellant to effect service without producing completion certificate from the competent authority.

7.3 The Appellant filed an Appeal Petition before the Ombudsman. During the hearing the Respondent stated that the Appellant had filed a Writ Petition vide WP No.21011 of 2023 dated 07.07.2023 in the Hon'ble High Court, Madras and the same is being under pending disposal. During the hearing the Appellant also agreed the same.

7.4 In this connection, I would like to refer the regulation 17(4)(d) of the Consumer Grievance Redressal Forum and Electricity Ombudsman which is furnished below.

“17

(1) xxxx

(2) xxxx

(3) xxxx

(4) *No complaint to the Electricity Ombudsman shall lie unless:*

(a) xxxx

(b) xxxx

(c) xxxx

(d) *The complaint does not pertain to the same subject matter for which any proceedings before any court is pending or a decree or award or a final order has already been passed by any competent court; and*

(e) *The complaint is not frivolous or vexatious in nature.”*

7.5 On a plain reading of the above, it is understood that the Ombudsman cannot undertake an appeal petition where the legal dispute is pending before any court or a decree or award or a final order has already been passed by any competent Court.

7.6 In this case it is noted that the Appellant has filed a Writ Petition vide WP No.21011 of 2023 dated 07.07.2023 in the Hon'ble High Court, Madras and the same is being under pending disposal. Therefore as per the regulation 17(4)(d) of the Consumer Grievance Redressal Forum and Electricity Ombudsman the Ombudsman cannot take up this appeal and hence this appeal is dismissed as there is no disposal of the Appellant's appeal as the suit is pending before the Hon'ble High Court, Madras.

8.0 Conclusion:

8.1 As the Appellant has filed a Writ Petition vide WP No.21011 of 2023 dated 07.07.2023 in the Hon'ble High Court, Madras regarding effecting service connection for his building and the same is being under pending disposal, as per the regulation 17(4)(d) of the Consumer Grievance Redressal Forum and Electricity Ombudsman, the Ombudsman cannot take up this appeal and hence this appeal is dismissed.

8.2 With the above findings A.P.No.49 of 2023 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 P.Muniyan,
463, 4th Cross Street,
Water Board Colony, Fairlands – PO,
Salem – 636 016.

– By RPAD

2. The Executive Engineer/O&M/West-Salem,
Salem Electricity Distribution Circle,
TANGEDCO,
Valluvar Nagar, Annathanapatti,
Salem – 636 002.

3. The Superintending Engineer,
Salem Electricity Distribution Circle,
TANGEDCO,
K.N.Colony P.O,
Salem - 636 014.

– 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,
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6. The Assistant Director (Computer)
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