

Santosh

**IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO. 112 OF 2022**

Mr Hire Mahadev Parab,
Son of late Mahadev Parab,
Aged 74 years, Indian National,
Resident of House No.17, Khalchawada,
Virnoda, Perenem, Goa.

... Petitioner.

Versus

1. The Chief Electrical Engineer,
Electricity Department, Government of Goa,
Vidyut Bhavan, Panjim, Goa.

2. The Executive Engineer,
Electricity Department,
Government of Goa,
Division XVII, Mapusa, Bardez, Goa.

3. The Assistant Engineer,
Electricity Department,
Government of Goa,
Division XVII, Sub-Division I,
Pernem Goa.

... Respondents.

Mr Shane Gomes Pereira, Advocate for the Petitioner.

Mr Manish Salkar, Government Advocate for the Respondents.

CORAM : M. S. SONAK, J.

DATE : 21ST SEPTEMBER 2023

ORAL JUDGMENT :

1. Heard Mr Shane Gomes Pereira for the Petitioner and Mr Manish Salkar, learned Government Advocate for the State.
2. Rule. The rule is made returnable immediately at the request of and with the consent of the learned Counsel for the parties.

3. The challenge, in this petition, is to the orders dated 29/11/2021 made by the Electricity Ombudsman for the State of Goa in Appeal No.152/2021 and the order dated 30th July 2021 made by the Consumer Grievances Redressal Forum (CGRF), Electricity Department. In terms of both these orders, the electricity connection granted to the Petitioner has been disconnected because, the Zonal Agricultural Officer (ZAO) withdrew the NOC granted to the Petitioner. The ZAO's withdrawal was, in turn, based upon the proceedings initiated by the Deputy Collector in case No. DCP/LRC-ILL-CONV/8-56/2019, alleging conversion of an agricultural land for non-agricultural purposes. The Deputy Collector, in the above proceedings, had issued a stop-work order, based upon which, the ZAO withdrew the NOC and the Electricity Department disconnected the electricity connection.

4. On 14th September 2023, upon hearing the learned Counsel for the parties, this Court made the following order :

“P.C.:

1. Heard Mr Shane Gomes Pereira for the petitioner and Mr Manish Salkar, learned Government Advocate for the State.

2. The petitioner to file an affidavit regards allegations of conversion of the agricultural property without compliance with the provisions of the Land Revenue Code. This affidavit is necessary because Mr Pereira now contends that the property in question is not converted for any non-agricultural use but that the petitioner had only sunk a well and installed a power pump in a pump house for using the water from the sunk well. The affidavit must be filed with full details, photographs, etc.

3. Stand over to 21.09.2023.”

5. Pursuant to the above order, the Petitioner has filed an affidavit along with photographs. In the affidavit, the Petitioner has clarified that he was not sinking any new well or that he had not constructed any new pump house, but the Petitioner was only in the process of repairing/maintaining the well, already in existence and further, only a plastic cover was put up on the pump installed near this existing well. The affidavit is accompanied by photographs, showing the well and the cover on the pump, near the well. The affidavit states that apart from the above activity, no other activity was being undertaken by the Petitioner. The affidavit clearly asserts that the Petitioner has not changed the use of the land and the land, in question, continues to be used only for the agriculture purposes.

6. From the material placed on record by the Petitioner and the statements made in his affidavit at least, *prima facie*, no case of illegal conversion appears to have been made out. However, it is for the Deputy Collector, in the pending proceedings, to examine the matter and take action as provided under law.

7. In the meanwhile, however, there does not appear to be a sufficient justification to disconnect the Petitioner's electricity supply. The Petitioner, on oath, has asserted that he was only maintaining or repairing the existing well. Besides, the Petitioner, on oath, has asserted that a pump had already been installed to access water from the well and this pump was only covered with a plastic sheet. The photographs which, *prima facie*, support this stand, were also annexed to the affidavit.

8. Mr Pereira, learned Counsel for the Petitioner, on instructions, states that the Petitioner is using the property in question only for agricultural purposes. Even the water from the well is being used for agricultural purpose. The Petitioner was only clearing, strengthening and desilting the well. The water pump in a box type enclosure, is installed to effectively access the water from this well. All this is clearly stated in the affidavit. At least, *prima facie*, based upon this material, the action of disconnecting the Petitioner's electricity connection appears to be disproportionate, particularly since this was meant to be an interim measure, until the Deputy Collector finally decides on the issue of alleged illegal conversion.

9. The impugned orders have not examined the matter from the above perspective. The impugned orders do not address the issue of disproportionality and the fact that the disconnection was meant to be an interim measure. This is a case where the Petitioner could have been put to terms about the user of the property for agricultural purposes only and the connection could have been restored in the interim.

10. The Petitioner has asserted on oath that he is using the property, the well and the pump only for agricultural purposes. Mr Pereira, based on instructions from the Petitioner, states that the property, the well and the pump will not be used for any purpose other than agriculture. This statement is accepted as an undertaking on behalf of the Petitioner.

11. Considering the totality of the above circumstances, the impugned orders are set aside and the Respondents are directed to

restore the electricity connection to the Petitioner within 10 days from today. Such a restoration shall, however, be subject to the final orders that the Deputy Collector shall make in the above referred illegal conversion proceedings initiated against the Petitioner.

12. The Rule is made absolute in the above terms.
13. There shall be no order for costs.
14. All concerned to act on an authenticated copy of this order.

M. S. SONAK, J.

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