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**(1994) 01 NCDRC CK 0006**

**In the National Consumer Disputes Redressal Commission**

ALACRITY FOUNDATIONS (PVT.) LTD.

APPELLANT

Vs

CHAIRMAN, TAMIL NADU ELECTRICITY BOARD

RESPONDENT

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**Date of Decision :** 12-01-1994

**Acts Referred:**

**Citation :** 1994 0 NCDRC 20 : 1995 1 CPJ 237 : 1995 2 CLT 154

**Hon'ble Judges :** V.BALAKRISHNA ERADI , Y.KRISHAN , B.S.YADAV J.

**Advocate :** S.MURLIDHAR , SHOMONA KHANNA , ARUNA MATHUR

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**Judgement**

1. THESE are two cross appeals arising out of the order dated 23rd November, 1992 passed by the State Consumer Disputes Redressal Commission, Tamil Nadu at Madras by which it allowed Rs. 10,000/- as compensation for mental agony suffered by the Appellant in Appeal No. 12/93 (hereinafter referred to as Complainant) on account of delay in effecting the service connection to the apartment complex of the Complainant by the Tamil Nadu Electricity Board (hereinafter referred to as Opposite Party). As is clear from the titles of the Appeals, First Appeal No. 12/93 has been filed by the Complainant against that part of the Order by which other claims were disallowed by the State Commission while Appeal No. 13/93 has been filed by the Opposite Party against the impugned order. The facts as gathered from the records are that the Complainant is a Company engaged in the construction of residential and non-residential apartments. The Complainant has built many apartments/complexes in Madras and is dealing with the Opposite Party for seeking electricity connection for the construction purposes. As per Clause 6 of the terms and conditions for the supply of electric energy the requisition for the supply should be made at least one month in advance of the requirement. Under Clause 8, the consumer should permit the Opposite Party to install the requisite equipments such as transformer, switch gears etc. in the consumer's premises and for this purpose the consumer should allow, if required, use of any land free of cost. These equipment will however continue to remain the property of the Opposite Party. The grievance of the Complainant is that the Opposite Party has inordinately delayed in giving connection to the apartments constructed by the

Complainant. Some instances have been cited but it is needless to refer to them since no relief is claimed in respect of those apartments. The claim is only in respect of a complex known as "Atandra" at Door No. 15, T. Nagar, Madras. The Complainant made an application for electric connection on 3.4.1990 for this complex but the service connection was effected only on 26.9.1991. In order to avoid delay the Complainant has supplied materials of the value of Rs. 55,854/- free of costs. It has also offered free of costs a space within the complex for putting up the Distribution Transformer. Despite all these facilities offered by the Complainant, the Opposite Party has taken one year and five months to give the electricity connection. On account of this delay the Complainant has been put to much loss as the complex was ready for occupation in January, 1991 but for electricity connection it could not be occupied before September, 1991. The rental value for 32 residential flats measuring 32,000 sq. ft. at the rate of Rs. 2/- per sq. ft. per month for 9 months comes to Rs. 5,76,000 / -. The monthly value of the office premises measuring 12,500/- sq. ft. at the rate of Rs. 4 /- per sq. ft. per month for 9 months comes to Rs. 4,50,000/-. Deducting therefrom 25% of office occupancy for 6 months, due to limited power supply, at Rs. 1,12,500/-, the Complainant has suffered loss amounting to Rs. 9,69,354/-. This amount includes the cost of material supplied by the Complainant.

2. THE Opposite Party filed counter and pleaded that all builders of flats including the Complainant were sanctioned temporary electric connection for the construction work. On the completion of the construction and before occupation the owners apply for electric connection. If the supply is a mere service connection without any major work the energy will be effected within 30 days as contemplated under Rule 6 of the terms and conditions of the supply of electricity. If the work involves erection of transformer and laying of high voltage resisting cables there will be considerable delay as it involves preparation of estimates, sanction by various authorities and execution of works after procuring required material. The condition that requisition for supply of electricity must be made at least one month in advance from the date of requirement does not create any right for putting up distribution transformer within one month. The period of one month stipulates the minimum required period. In respect of "Atandra" complex the Complainant applied for and got temporary service connection on 22nd December, 1989 and this temporary supply continued for about 20 months. The construction work continued upto September, 1991 till the permanent supply was effected. The Opposite Party received 33 applications from the owners of the flats in the complex and one application from the Complainant. All of them were registered on 18th October, 1990. The estimate was sanctioned on 11th February, 1991. The security deposit was called for on 19th February, 1991 and was deposited by the Complainant on 21st February, 1991. After obtaining the work order and collecting the materials the work was started and the poles were erected on 24th April, 1991. The structural works were completed on 27th May, 1991. The earthing work was completed on 25th June, 1991. Due to non-availability of the transformer in the MEDC Central

Circle, the transformer was diverted from the other circle on 30th July, 1991 and high tension cable was laid on 5th August, 1991. Due to non-availability of XIPE cable termination the parties supplied the material and the work was completed on 27th August, 1991. Straight joint works for tapping from the existing HT cables was completed on 14th September, 1991 and the transformer was energised on 16th September, 1991 and service was effected on 27th September, 1991, after service connection charges were paid by the Complainant on 25th September, 1991. The Opposite Party in order to give immediate relief to the Complainant, an advance supply for a load of 10 KWs was effected during March, 1991 itself, besides availing of temporary supply for construction purposes for a load of 4.5 KWs. The building was not in complete shape for occupation in January, 1991. All efforts were sincerely made to effect the supply as early as possible and there has been no deficiency of service. Moreover, the Complainant did not suffer any loss. The State Commission after considering the various documents and the dates of the various works held that there has been inordinate and avoidable delay of more than 10 months in the supply of electricity and this would amount to deficiency in service. It was further held that advance supply for load of 100 KW was effected in addition to the temporary supply for construction purposes of a load of 45 KW and this supply must have been available to the Complainant and apartment owners and it cannot therefore be said that the Complainant/owners were unable to occupy the premises for want of electric energy. The State Commission was therefore not inclined to grant any compensation on the ground that the apartments could not be occupied for want of electric connection. The State Commission, however, held that the Complainant was entitled to compensation for mental pain and agony as it had to wait nearly for one year and 5 months to get the permanent connection and thus a compensation of Rs. 10,000/- was considered sufficient by the State Commission to meet the ends of justice.

3. WE have heard the learned Counsel for the parties and have gone through the records. The contention of the Complainant is that its requirement was of 218.520 KW" while only 10 KW supply was given on 13th March, 1991 in addition to the temporary supply. It was also pointed out that the State Commission fell into error while holding that the load of 100 KW was supplied in March, 1991 in addition to the temporary supply for the construction purposes of a load of 45 KW when it is an admitted fact that in March, 1991 a load of 10 KW was supplied in addition to the temporary supply for construction purposes of a load of 4.5 KW. We agree that the State Commission has fallen into some error but we are of opinion that there is nothing on the file to show that on account of the alleged delay in supply of electricity the Complainant has suffered any loss. As clear from the counter filed by the Opposite Party Residential Flats had already been sold and the owners themselves had applied for electric connection. There is also no evidence to show that exactly when the commercial complex was completed. There is also no evidence to show that any allotted purchaser of the space in the commercial complex refused to occupy that space for want of

electricity. It has also not been shown that the temporary electricity supply which had already been given was insufficient for the use of occupants in the commercial complex.

4. WE have also gone through the various dates given in the Order of the State Commission about the various works carried out by the Opposite Party. Though there has been some delay at one or two stages of the work it cannot be said that there was inordinate delay. In the light of the above discussion, we do not find any force in either of the appeals. We confirm the Order passed by the State Commission and dismiss both the appeals but make no order as to costs.