

BEFORE THE VIDYUT OMBUDSMAN

Present

K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated: 17 -04-2010

Appeal 6 of 2010

Between

Smt Penta Narmada
W/o. Kounteya
Kottuvala Street
Palasa, Srikakulam Dist.

... Appellant

And

The Asst. Engineer / Operation / APEPDCL / Palasa
The Asst. Divisional Engineer / Operation / APEPDCL / Palasa
The Divisional Electrical Engineer / Operation / APEPDCL / Tekkali

....Respondents

The appeal / representation dated 20.03. 2010 received on 23.03.2010 of the appellant has come up for final hearing before the Vidyut Ombudsman on 06.04.2010 at Visakhapatnam, in the presence of Sri P.Kounteya, husband of the appellant present, Sri G.N.Prasad,ADE/Op/Palasa and Sri K.Srinivasa Rao, AAE/Op/Palasa present for respondents and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following :

AWARD

The appellant filed a petition before the Forum to withdraw the Provisional Assessment Order issued by the designated officer.

2. The respondent No.2 filed written submissions to the effect that SC No. 5615 of Palasa Cat-I released on 18.08.2003 with 1000 connected load. The service was inspected by Sri M.Papa Rao, AAE/O/V.Kotturu in the presence of Sri Kounteya, husband of the appellant on 09.09.2009 at 5.30PM. At the time of

inspection, the consumer was utilizing power supply to the godown and it was treated as malpractice and issued Provisional Assessment Order (PAO).

3. After hearing, both sides and after considering material placed before the Forum, the Forum, ordered that her prayer for withdrawal PAO issued by the designated officer is not fallen under the jurisdiction of this Forum. The Final Assessment Order (FAO) has already been passed by the designated officer and there is a chance for appeal before the Superintending Engineer whose orders are final in terms of Section 126(4) of Electricity Act, 2003 and disposed the CG accordingly.

4. Aggrieved by the said order, the appellant preferred this appeal questioning the same that it is contrary to law and also contended that in the ground floor, her husband has ran a flour mill and for that 3-phase supply was used about four or five years back, the flour mill was disposed otherwise and the 3-phase meter was also disconnected. From that time onwards there is no power supply to the ground floor of their house and the same was vacant and used as godown to store his stocks for sale.

5. The contention of the appellant is that at the time of inspection, the officer saw the old electrical wiring of the disconnected 3-phase wiring in that godown and he thought that they are misusing the domestic supply for the godown and they never used the domestic supply for the godown and there was no power supply when he inspected.

6. Now, the point for consideration is, “whether the impugned order, dated 23.12.2009, is liable to be set aside? If so, on what grounds?”

7. The appellant’s husband Mr.Kounteya present and represented that he never used the power supply to godown and there was no need to utilize the power supply to the godown. During day time only it was used and it was

sufficiently provided with windows for lighting. Whereas, the respondents have stated that it was a malpractice and there was suppression of meter reading and the same has been noted in the presence of the husband of the appellant.

8. At the time of hearing, the appellant has submitted a copy of letter addressed by him dt.04.10.2009, not immediately after the inspection. The respondents have submitted a PAO wherein it is clearly mentioned with the recorded units and malpractice amount, etc. If the appellant has addressed a letter immediately after the inspection, there may be some force in the contention but he has addressed on 04.10.2009 i.e., 20 days after the inspection it shows that it is an after thought. He would have issued a notice immediately after the said inspection.

9. When it is a case of malpractice the Forum itself is not vested with power to deal with as it does not come within the definition of deficiency of service and the malpractice case comes within section 126 of the Electricity Act, 2003 and there is a separate Forum to adjudicate the dispute and to work out the same. When the Forum itself is not having the power to entertain the complaint, this authority being the appellate authority is also not vested with the power to entertain the appeal. The appellant ought to have approached the Superintending Engineer by preferring an appeal against the orders of the Divisional Engineer. I do not find any irregularities in the impugned order and the appeal preferred by the appellant is liable to be dismissed.

10. In the result, the appeal is dismissed. No order as to costs.

This order is corrected and signed on this day of 17th April 2010

VIDYUT OMBUDSMAN