

BEFORE THE VIDYUT OMBUDSMAN

Present

**K.Sanjeeva Rao Naidu, Director (Law) and
Vidyut Ombudsman**

Dated: 04-03-2010

Appeal No. 31 of 2009

Between

M/s. Suguna Poultry Farm Ltd
Plot No. 9, IV Floor, Anu Radha Complex,
Central Park, Kompally,
Secunderabad - 014

... Appellant

And

Divisional Engineer / Operation / APCPDCL / Medak
Senior Accounts Officer / Operation / APCPDCL / Medak Circle / Sangareddy
Superintending Engineer / Op / Medak Circle / APCPDCL / Sangareddy
Superintending Engineer / Comml / Customer Services / APCPDCL / Corp. Off / Hyd
General Manager / Revenue / APCPDCL / Corp. Off / Hyd

....Respondents

The appeal / representation dated 28.07.2009 of the appellant has come up for final hearing before the Vidyut Ombudsman on 02.32.2010 in the presence of Sri. C.Niranjan Rao, Advocate for appellant, Sri V.Venkataramana, appellant and Sri. K.V.Narasimha Reddy, DE/Op/ Medak, Sri P.Krishna Reddy, SAO/Op/ Medak present on behalf of respondents and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following :

AWARD

Aggrieved by the order passed by the Forum in C.G. No.2/ 2009-10 of Medak Circle dated 29.06.2009, the appellant herein preferred this appeal dated 28.07.2009.

2. The appellant filed a complaint before the Forum on 02.04.2009 claiming that he established a hatchery in Kasala(V), Hathnoora (M), near

Narasapur in October 2006 and provided with HT power supply by the respondents under Category-II through S.C.No.MDK 948; and that they have been regularly paying electricity bills up-to-date. They came to know very recently that the power supply to their hatchery has been wrongly placed in Category-II instead of Category-I (A) as the position with various other hatcheries in the State of Andhra Pradesh is under Category-I only. They have paid excess bills also, without any default. They have approached the concerned officials with a representation to change HT power supply from Cat-II to Cat-I(A) and the same has been sent to the CMD,APCPDCL as well as SE(Op),APCPDCL. Awaiting their response for conversion, they are forced to approach the Forum with the grievance and change of Cat-II to Cat-I(A) and the difference of tariff amounts, varying from Rs.0.90/kWh to Rs.1.20/kWh for a consumption of 5764034kWh till February 2009, may be ordered to be reimbursed, as they have been paying excess, due to wrong categorization.

3. The respondents have submitted their written submissions that the HT supply was released on 26.10.2006 to the appellant with a CMD of 400 kVA at 11kV voltage on payment of necessary charges and HT CC bills have been issued under Cat-II tariff as per HT Test report collected from the consumer. Further, additional CMD of 400 kVA was released on 23.04.2008 on payment of necessary charges and revised the test report was collected under HT Cat-II tariff. The representation for conversion is under examination by APCPDCL. On 28.04.2009, orders were issued for change of Category from HT-II to HT-I with immediate effect.

4. Sri B.Sudheer Kumar, Project Manager of the appellant and Sri G.S.Rama Dass, Consultant were examined on behalf of the appellant and they reiterated the same contentions raised in the complaint itself. Whereas, Sri Ch.Chakrapani, DE/Op/Medak and Sri A.Mahesh Kumar, SE/CommI/APCPDCL were examined and they reiterated the contentions raised by them in the counter. Furthermore, Sri Ch.Chakrapani admitted, that in the test report, the category was mentioned as HT only, they did not mention any category in the said report and

subsequently, it was recorded as Cat-II. But in the additional documents filed before this authority, Category-II is mentioned in the test report.

5. After hearing both sides and considering the material available, the Forum passed an order to the effect that

“it is fair and reasonable , if a direction is issued to the respondents to change the category of HT SC No.MDK-948 of the complainant i.e, M/s. Suguna Poultry Farm Limited from HT Category-II to HT Category-I with effect from 26.12.2008 instead of 28.04.2009 as per clause 3.4.2 of GTCS read with Regulation No. 7 of 2004 of APERC. The excess amount paid by the complainant in respect of his HT SC No.MDK-948 under HT-II tariff during the period from 26.12.2008 to 27.04.2009 shall be adjusted against future CC bills.”

6. Aggrieved by the said order, the appellant preferred this appeal, that the respondents have wrongly placed his S.C in Cat-II instead of Cat-I. The service connection is altered from Cat-II to Cat-I with immediate effect on 28.04.2009 without mentioning the back billing / relief for the excess payment done. But the Forum has restricted the relief with effect from 26.12.2008 but not from 27.04.2009, though he is entitled right from the beginning i.e, October 2006 and the appeal is to be allowed by setting aside the impugned order.

7. Now the point for consideration is, whether the impugned order is liable to be set aside? If so, on what grounds?

8. The contention of the appellant is, that all the hatcheries in the jurisdiction of the respondents are under HT Cat-I and they have erroneously given the connection under HT Cat-II and he has paid all the bills. In support of his contention, the records of other hatcheries are also filed to show that they are in HT Cat-I only; and that he is entitled for the relief as sought for.

9. Whereas, the Sri K.V.Narasimha Reddy, D.E and Sri P.Krishna Reddy, SAO for respondents present and they have submitted, that the appellant has asked for connection for hatchery and it does not attract the ingriedience of HT

Cat-I and that is the reason for, they have given HT Cat-II and the test report also was signed by the appellant; and that he is precluded from claiming that he is entitled for HT Cat-I with effect from October 2006. They have also further argued that the service connection is altered to HT Cat-I on the orders of the Superintending Engineer.

10. The Forum has considered the definition of 'Hatcheries' and distinguished the same with 'Poultry'. It has also described the meaning of 'Hatcheries' as a place of hatching eggs and meaning of 'Poultry' is chicks, ducks, geese kept for their meat or eggs and rejected the relief. It has also discussed at length that the appellant submitted application on 19.12.2008 for the first time for change of category of SC MDK-948 from HT Cat-II to HT Cat-I. This shows that the Forum has not looked into the letter addressed for change of category. It has simply extracted Clause 3.4.2 of GTCS as to how the change has to be made. In the very letter addressed by him on 19.12.2008, it is clearly mentioned that the categorization was wrongly made and requested for change of categorization from HT-II to HT-I. It is not the case of conversion, it is only the case of correction of mistake committed in allocating the category. Basing on the representation, the CGM (Commercial) passed an order to change the category from HT-II to HT-I with immediate effect.

Distribution Tariffs 2006-07 to 2008-09
and
Retail Supply Tariffs 2006-07 defines

H.T. Category-I as hereunder.

"This tariff is applicable for supply to all H.T. Industrial Consumers. Industrial purpose shall mean manufacturing, processing and/or preserving goods for sale, but shall not include shops, Business Houses, Offices, Public Buildings, Hospitals, Hotels, Hostels, Choultries, Restaurants, Clubs, Theatres, Cinemas, Railway Stations and other similar premises notwithstanding any manufacturing, processing or preserving goods for sale. The Water Works of Municipalities and Corporations and any other Government organizations come under this category. The Information Technology units identified and approved by the

Consultative Committee on IT industry (CCITI) constituted by Govt. of AP also fall under this category.”

11. The Forum has not looked into the meaning of manufacturing and processing mentioned in the said category. ‘Hatcheries’ itself comes within the definition of either manufacturing or processing. How the department has interpreted the said wording ‘Poultry’ is not seen, anywhere in the proceedings.

L.T. Category -IV

“Poultry farming units upto 1000 birds strength (subject to certification by A.P.S.M & P.D.C. as to the strength in the poultry farm) come under this category. If the bird strength of birds in the poultry farm exceeds 1,000 birds, electricity supply to such poultry farms shall be classified under L.T. Category-III (A) or HT category I as the case may be according to the connected load.”

12. The same analogy is used even in the year FY 2009-10 to 2013-14 and Retail Supply Tariff for FY 09-10. No change is made either in the tariff of the wording under both the categories.

13. If the word ‘Poultry’ is not used and if manufacturing is not taken into account how the same is changed in the year 2009 is not explained by the respondents. When there is no change in the tariff orders when the analogy is applicable for the years 2009-10, it is also applicable to the years 2006-07 *mutandis mutandis*.

14. Apparently, mistake is committed by the respondents in allocating the category to the appellant forcing him to pay more charges than the charges actually liable to be paid by him. The documents filed by the appellant pertaining to the other hatcheries and poultry farm have clearly established that they are provided with HT Cat-I and not HT Cat-II. There is great and grave injustice caused to the appellant due to the deficiency of service by the officials of the respondents. In the agreement, he has simply requested to provide a service

connection suitable to his hatchery. It is for the department to look into the same and allocate the category to which he is entitled to. That part of duty is not discharged properly and committed deficiency of service. The impugned order passed by the Forum is not on correct lines as it has wrongly interpreted the words and rejected the relief and the said order is liable to be set aside.

15. In the result, the appeal is allowed and the respondents are directed to calculate the differential amount right from 26.10.2006 up to 26.12.2008, if any, payable to him in the form of refund or by adjusting the same in the future bills. No order as to costs.

This order is corrected and signed on this day of 4th March, 2010

VIDYUT OMBUDSMAN