

## **BEFORE THE VIDYUT OMBUDSMAN**

Present

**K.Sanjeeva Rao Naidu**  
**Vidyut Ombudsman**

Dated: 22 -10-2010

### **Appeal No. 37 of 2010**

Between

Ms.G.Leena Lavanya Kumari  
Managing Trustee  
Serve Trust,  
Narasaraopet – 522601, Guntur Dist

***... Appellant***

**And**

1. Additional Assistant Engineer / D3/ Narasaraopet
2. Assistant Divisional Engineer / Operation / Town/ Narasaraopet
3. Divisional Engineer/Operation/ Narasaraopet
4. Accounts Officer/Revenue/Central office/Guntur

***....Respondents***

The appeal / representation dated 13.07. 2010 (received on 16.07.2010) of the appellant has come up for final hearing before the Vidyut Ombudsman on 12.10.2010 at Hyderabad in the presence of Ms.G.Leena Lavanya Kumari,appellant, Sri Kalyan, project head and Sri K.Jagan, project head for appellant, present and Sri A.Jayaraju, Advocate for respondents present on 07.09.2010 filed vakalat and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following :

### **AWARD**

Ms. G.Leena Lavanya Kumari, Managing Trustee, Serve Trust filed a complaint on 29.04.2010 to convert service connection running in Serve Trust from Non-Domestic to Domestic category as the Trust is running without profit

basis as it is running rehabilitation centre for HIV/AIDS Patients, T.B. Patients and old aged homes.

2. The respondents have submitted their remarks as hereunder:

(i) It is true that the service nos. 590, 554, 620, 621, 628 and 629 of Guravayapalem are released under Cat-II.

(ii) the premises of the above service are running in the name of serve trust and functioning as social service organization and shelter provided to the lepers, HIV/AIDS patients, aged and TB patients.

(iii) for changing the category from II to VII, the following documents are required.

a. IT exemption certificate under 80(G) issued by the income tax authorities.

b. Copy of the registration certificate for having registered under societies registration act registration under charitable trust deed.

(iv) certified audited accounts for the last 5 years and a certification to that effect that the organization is running under no profit basis.

(v) respondents have no objection to recategorise the service organization soon on production of the above records.

The Chairperson and Member (Accounts) have also inspected the premises on 05.06.2010 and opined that a rehabilitation centre is running for HIV/AIDS patients, TB patients and leprosy patients.

3. The Forum has disposed with a direction that the appellant has to produce IT exemption certificate u/s 80(G) issued by income tax authorities, copy of registration certificate for having registered under societies registration act registration under charitable trust deed, certified audited accounts for the last 5 years and on production of the same, the respondents are directed to change the category.

4. Aggrieved by the said order, the appellant preferred this appeal questioning the same, that they are running elementary school at Siva Sanjeevaiah colony, Narasaraopet (i.e, where the people belongs to Yerukala and Yanadi communities are staying in the colony) by providing break-fast, food, cloths and shoes etc. to the downtrodden communities. They are also maintaining free computer training centre at Narsaraopet. They are also running the hospices for HIV/AIDS kids, Tuberculosis patients and the aged irrespective of their caste and creed for the last several years at Guravayapalem by providing them food, accommodation, medicines and clothing till their last breadth for free of cost. The very objective of the Trust is to serve the downtrodden, distressed and marginalized and needy people in the Society and they have submitted all the documents except IT exemption certificate under 80(G), since it is optional as they are not getting any donations either from the Government or from the public. Inspite of personal inspection and the order granted by the Forum is not complied and in turn the respondents refused to provide service connection and thereby approached this authority to consider their request for conversion.

5. The respondents counsel filed a counter reiterating all the grounds mentioned in the Tariff conditions with regard to all the categories provided in the Tariff Order and ascertained that IT exemption certificate, Registration certificate, certified audited accounts for the last 5 years are essential to produce and when they have not filed the same, it cannot be considered and further mentioned that the Trust must be charged under Category-I (Domestic). The purpose of rehabilitation centre does not fall within the domestic purpose and even the premises is not a domestic premises. The plea of the appellant to change the same to domestic is untenable and the appeal is liable to dismissed.

6. Now, the point for consideration is, “whether the appellant is entitled for conversion of the service connection as prayed for?”

7. Ms.Leena Lavanya Kumari appellant's trust is a charitable organization and they are entitled for the conversion, but the respondents have insisted the documents unnecessarily and rejected the request made by the appellant and the impugned order is liable to be set aside.

8. Whereas, the learned counsel for the respondents have filed their counter stating that the appellant is not entitled for the relief as they have not produced relevant record / information / material to substantiate their case for conversion into domestic and the appeal is liable to dismissed.

9. It is clear from the impugned order that the appellant is giving free service to the public suffering with HIV/AIDS, T.B.Patients, old aged and children of the downtrodden communities, etc but the respondents insisted for production of income tax return, copy of the registered certificate, certified audited accounts for the last 5 years. It is necessary to extract the relevant provision of the Tariff order 2009-10

***“L.T. CATEGORY-VII(A)-GENERAL PURPOSE***

*Applicable for supply of energy to places of worship like Churches, Temples, Mosques, Gurudwaras, Crematoriums, Government Educational Institutions and Student Hostels run by Government agencies, and Educational Institutions run by charitable Institutions (**Public charitable trusts** and societies registered under the Societies Registration Act running educational and medical institutions on a no profit basis), recognised service institutions and old age homes run by recognized service institutions.”*

10. It is very clear from the above said provision that LT Cat-VII(A) can be provided to the organizations mentioned thereby including the public charitable trusts. The Tariff order does not disclose the production of above said records as demanded by the respondents. If it is mentioned clearly in the Tariff order for production of the above said documents, no doubt the appellant is not entitled for any relief, but the respondents have insisted for production of IT return, Registered certificate, certified audited accounts for the last 5 years without any

authority to do so. No other provision is shown for the disentitlement of the petitioner. In the absence of specific provision or clause either in the Tariff order or in the Terms & Condition of the Supply insisting the same is not only against to the principle of natural justice but against to the provisions of law.

11. The appellant has submitted photocopy of the Registered certificate and the certificate of the audited accounts by the Chartered Accountant. In addition, the Forum having personally inspected and satisfied that the running of trust without any profit and it is the contention of the appellant is that they are running the institutions with the funds from the foreign countries and running the institute for the benefit of the public who are very much in need or distressed and downtrodden class.

12. When a consumer is entitled for a benefit and if it is not provided, it comes within the definition of deficiency of service. The consumer is at liberty to approach the competent authority either the District Consumer Forum or the Forum constituted under the Electricity Act to rectify the deficiency of service. There is no bar under the Electricity Act, preventing consumers to avail facility under the Electricity Act alone. When there is no express bar under the Act, the consumer is at liberty to avail the benefit either of the two Forums. However, the appellant has approached CGRF and when the impugned order passed by the Forum is against to the tariff condition since they have insisted documents which are not incorporated in the tariff order itself and the same is liable to be set aside.

13. Hence, I am of the opinion, that the impugned order is liable to be set aside and the respondents are directed to provide the service connection as incorporated under LT Cat-VII(A) as it deals with Public charitable trust also. In fact the respondents have also filed the required documents except IT return. It is the out look of the IT department. However, the insistence for production of the documents is not at all sustainable and the same is liable to be set aside.

14. In the result, the appeal is allowed setting aside the impugned order and the respondents are directed to provide service connection supply under LT Cat-VII(A) of Tariff order 2009-10 within 30 days from the date of receipt of the order.

15. The compliance of the order may be reported to this authority within 30 days from the date of receipt of the order.

This order is corrected and signed on this day of 22<sup>nd</sup> October 2010

**VIDYUT OMBUDSMAN**

## VIDYUT OMBUDSMAN

4<sup>th</sup> Floor, Singareni Bhavan, Red Hills, Hyderabad-500 004

From

K.Sanjeevarao Naidu,  
Vidyut Ombudsman,  
'Singareni Bhavan' 4<sup>th</sup> Floor,  
Red Hills, Lakdikapool, Hyderabad.

To

Ms.G.Leena Lavanya Kumari  
Managing Trustee, SERVE TRUST,  
# 12-22-4, Prakash Nagar,  
Narasaraopet – 522 601.  
Guntur Dist. (A.P.)

Lr.No.VO/Appeal No.37/ 2010 dated 23.10.2010

Sir,

Sub: - Appeal No. 37 of 2010 – Appeal filed by Ms.G.Leena Lavanya  
Kumari Managing Trustee, SERVE TRUST, # 12-22-4, Prakash  
Nagar, Narasaraopet – 522 601.Guntur Dist. (A.P.)

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A copy of the Order passed by Vidyut Ombudsman, on 22.10.2010, in  
Appeal No.37 of 2010 is forwarded herewith.

Yours faithfully,

Vidyut Ombudsman

Encl: as above

Copy to:

1. Sri O.Manohar Reddy  
Sri A.Jaya Raju, Advocates  
398, 3RT, Ramesh Residency, S.R.Nagar, Hyderabad – 38.
2. The Chairperson, Forum for Redressal of Consumer Grievances of APSPDCL,  
Tirupati
- 3.The Secretary, APERC, Hyderabad.
- 4.The JD/IT, APERC – with a request to keep this order in the Commission's  
Website.