

BEFORE THE VIDYUT OMBUDSMAN

Present

K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated: 19 -01-2011

Appeal No. 59 of 2010

Between
Smt G.Sanjeevi
D.No.14/139 and 140
Kamala Nagar, Anantapur

... Appellant

And

1. Asst.Engineer/Operation/Distribution-II/Anantapur
- 2 Asst.Divisional Engineer/Operation/Anantapur
3. Divisional Engineer/Operation/Anantapur

....Respondents

The appeal / representation filed on 18.12.2010 of the appellant has come up for final hearing before the Vidyut Ombudsman on 03.11.2010 at Hyderabad in the presence of Mrs.Anuradha, D/o appellant present and Sri T.Chandra Sekhar, ADE/O/Town-1 / Anantapur for respondents present and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following :

AWARD

The appellant filed a complaint before the Forum to the effect that the transformer in front of her house has become a hindrance to the public and students for the last two decades and the area in which the building is situated has become commercial complex with colleges, shops and big crowd all the time. The said DTR also became danger and frequently emanating sparks and flames came out from it. It is also mentioned in the complaint that the said DTR became

hindrance to her dance institution as it was obstructing entry to her house and affecting her earnings and requested the Forum to direct the respondents to shift the DTR to another place.

2. The respondent No.2 has submitted a letter dated 19.10.2010 to the effect that the 400 kVA P3 DTR was in service since last 40 years and no complaint was received to shift the said DTR. It is supplying power to 600 consumers. The said DTR is located in municipal area and well fenced and was located in middle of the load centre and it is not feasible to shift the DTR with that capacity of load.

3. The appellant was examined and stated that if the DTR is shifted, she will build shops/mulgies in her compound and she cannot point out an alternate place for shifting the DTR and suggested that four smaller DTRs be erected in different places to cater to other consumers and she will not bear the shifting charges. Whereas the respondents examined Sri T.Chandrasekhar and he stated that DTR is serving 600 consumers and if the appellant can show a place for shifting the DTR and prepare to bear the cost of shifting charges the proposal would be considered and the DTR is not a hindrance to enter into the building as there are two different gates on two different roads.

4. After hearing both sides and after considering the material placed before the Forum, the Forum rejected the complaint on the ground that she was not ready to bear shifting charges and not prepared to show the place for shifting DTR and issued suggestions to respondents as to how the 400 kVA DTR is to be maintained to avoid sparks and also directed the appellant to show a suitable place to shift the DTR and if ready to bear the cost of shifting charges and if the respondents feel feasible to shift the DTR, an estimate is to be prepared to shift the DTR.

5. Aggrieved by the said order, the appellant preferred this appeal questioning the same, that the version of the respondents is biased and they

have not presented actual facts. The respondents have neither searched out nor produced before the Forum or showed us, any relevant record showing the alleged 40 years of existence of the DTR. The appellant has been opposing the attempts of respondents right from beginning bringing a transformer to the location in October 1984, the engineers took advantage of their absence and shifted an age old DTR from elsewhere to this present point. They have persistently made several personal approaches. Every time the officers assured to shift, but evaded to respond. Another aspect is that, they have to bear the shifting charges. It is not understandable how the department can make a single consumer to meet the entire cost of such shifting as if the DTR is for the exclusive usage and as if they are the sole owners of entire habitation. No relevant rule is quoted. This version of respondents would be evasive, high handed and obviously intended to exploit and silence the innocent complainant of their kind. It will be very much natural rule that the department meets such expenditure of this nature from its general budget. The old decaying DTR may have to be disbanded any way. The appellant has to show a place for shifting the DTR is another paradox. It is not known how such responsibility can be placed on their shoulders. It is only to discourage the appellant from making any approach to the department. The Forum has failed to understand the heavy monetary loss put on them. The DTR stands very considerably in the way of essential necessary approach for proposed shop rooms coming up. The appellant has been losing an earning of Rs.50,000 a month merely because of merciless action of the department.

6. Now, the point for consideration is, “whether the impugned order dt.19.11.2010 is liable to be set aside? If so, on what grounds?”

7. Mrs.P.Anuradha, Daughter of the appellant present and submitted that it is the department that has put the DTR in the municipal area and it is for them to shift the same and there is no need for the appellant to pay shifting charges and it is the duty of the respondents to shift the DTR as it is causing not only

hindrance but also obstructing way apart from causing danger to the inmates as the appellant is running dancing school and small kids are coming and going and the Forum has failed to appreciate these aspects and the appeal preferred by them is to be allowed by setting aside the impugned order.

8. Whereas the respondents are represented by Sri T.Chandra Sekhar, ADE/Op/Town-1/Anantapur present and stated that DTR is having 600 service connections and it is located in the municipal area, and it is not causing any hindrance to the inmates nor any danger to the lives of the students and if a particular place is shown to shift the DTR by paying shifting charges and she failed to comply the two observations made by the Forum and the appeal preferred by the appellant is liable to be dismissed.

9. It is clear from the material placed before this authority that there is no specific provision in the regulation or in the Act or GTCS of APERC with regard to the charges for shifting DTR or line or poles and the same is provided by the concerned Board regulations under the head of Depository Contribution Works. As per the said board regulation, the expenditure has to be incurred by the person on whose instructions the DTR or line or pole is going to be shifted.

10. In this case, the very contention of the appellant is that small children are coming and attending dance classes and if the DTR is not shifted, the lives of the children may be affected and even in the interest of public the same has to be shifted to other place. No doubt shifting of DTR is the duty of the respondents. It is for them to shift the same but she cannot absolve the liability of paying shifting charges as it is the appellant who has approached the authorities to shift the DTR. Though, she has pleaded that the DTR was placed in the year 1984 in their absence, no proof is placed before the authority to that effect. If really it was installed in 1984, why they have kept quiet without giving any notice objecting the said installation of DTR.

11. In case of shifting some material may be spoiled, some material has to be replaced with new material and some material has to be reconstructed to suit the needs. Therefore, she cannot claim that she is not willing to pay the shifting charges. Even otherwise, some other service connections are going to be disturbed causing inconvenience to other consumers. This has been lost sight of by the appellant and simply because she has requested, it cannot be attended as if it is the duty of the respondents to shift the same by incurring the expenditure. No body is exempted from paying shifting charges as they cannot violate the department guidelines / instructions issued from time to time.

12. At the same time, the respondents are not expected to insist upon the appellant to show a place for shifting DTR as it is not a private DTR provided at the instance of the appellant for her exclusive use. So it is for the respondents to approach the concerned authorities i.e, municipal authorities for providing a space earmarked by them for shifting the DTR, so objection raised for providing a space by the appellant for shifting the DTR is unsustainable.

13. The other contention raised by the appellant is that it is an old DTR and emanating sparks from the DTR, endangering lives of the bypasses, inmates of house. It is also there in the complaint that the DTR is causing obstructing passage to the shop rooms constructed by her and thereby she is sustaining great loss as tenants are not coming to occupy the premises. If the DTR is causing any obstruction it is the duty of the respondents to provide sufficient space to ingress and egress of the inmates and customers coming to the shops. However, the appellant is running a dance school for small kids this authority feels to consider the request on sympathetic grounds in ordering the appellant to pay the shifting charges, by reducing it to half of the estimated amount for shifting.

14. In the light of the above said discussion the appeal is disposed with the following observations.

- (i) the appellant is directed to deposit half of the shifting charges estimated by the department since the respondents have to provide some material from the department side or by using the material which is removed at the time of shifting DTR.

If the appellant deposits half of the amount, the respondents are further directed to comply the following observations.

- (ii) the respondents are directed to locate suitable place for shifting DTR by consulting with municipal authorities
- (iii) if there are no alternative places in any manner by exhausting all the methods, the respondents are directed to shift the DTR by providing sufficient space to the place where the ingress and egress to the shops cannot be affected..
- (iv) the respondents are directed to replace the old DTR by providing new DTR incase of shifting to the nearby place by taking all precautionary measures not to emanate sparks from the DTR
- (v) no order as to costs.

This order is corrected and signed on this day of 19th January 2011

VIDYUT OMBUDSMAN