

BEFORE THE VIDYUT OMBUDSMAN

Present

**K.Sanjeeva Rao Naidu
Vidyut Ombudsman**

Dated: 04 -06-2011

Appeal No. 10 of 2011

Between

M/s. Lohia Edible Oils (P) Ltd
Plot No.23, IDA park, Vakalapudi
Kakinada, EG Dist.

... Appellant

And

1. Asst Divisional Engineer/Operation/ Town2/Kakinada
2. SE/Operation circle/Rajahmundry
3. Divisional Engineer/Operation/ Kakinada

....Respondents

The appeal / representation filed on 22.03.2011 of the appellant has come up for final hearing before the Vidyut Ombudsman on 13.05.2011 at Visakhapatnam, appellant being absent and Sri M.Rama Krishna DE/O/Kakinada 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 alleging that the booking of case of back billing and provisional assessment notice against defective functioning of meter in respect of electrical HT service No. RJY 843 at Vakalapudi, Kakinada, EG Dist was not correct as it is the department officials to see the functioning of meter and if it is

not functioning they have to rectify the same and the appellant requested the Forum to conduct an enquiry on the above said complaint.

2. The Forum simply endorsed as hereunder:

“When it is a case of back billing and provisional assessment notice issued by the designated officer against a case of defect in functioning of meter and difference of MF, the Forum itself is not vested with powers to deal with as it is being dealt with the Designated officers of the assessment wing.

The complainant ought to have approached the Superintending Engineer/Assessment / Visakhapatnam by preferring an appeal as mentioned in the impugned orders issued by the Assistant Divisional Engineer/Operation / Town II / Kakinada within the stipulated time.

Hence it is herewith rejected.”

3. Aggrieved by the said order, the appellant preferred this appeal that the adjudication of dispute on the working of the electrical meter was not provided in the EA 2003. In the Act, 1910, there was a provision for adjudication of the dispute relating to correct working of the meter was provided under Section 26(6) of 1910 Act. The DISCOMS as well as the APTRANSCO cannot frame rules which are not provided in the Act unless and otherwise, a procedure as contemplated under Art. 254(2) of the Constitution of India is provided. The Parliament also held the view that the consumer redressal forum is the proper body to redress this grievance and the consumers of electricity can get the dispute resolved through the consumer redressal forum. As now, Ombudsman, CGRF is already constituted and available, the same has power to adjudicate the dispute relating to the defective working of the meter and ultimately the appellant requested to entertain the case and redress the same while adjudicating the cause.

4. Now, the point for consideration is, “whether the impugned order dt.17.02.2011 is liable to be set aside? If so, on what grounds?”

5. In spite of the notice given by this authority, the appellant has failed to attend before this authority even though the matter is posted in the jurisdiction of APEPDCL at Visakhapatnam. One, Sri M.V.Krishna Rao, Electrician of the appellant has

attended and he was also informed about the same and on his request the matter was adjourned and again further notice was issued to attend the hearing on 13.05.2011. On both these occasions, the officials of the respondents attended but nobody represented the appellant. On 13.05.2011, Sri M.Krishna Rao, DE/O/Kakinada reported that the order passed by the Forum is complied and there is no grievance as stated and it is on that reason, the appellant has not attended before this authority. His statement cannot be accepted as it is one side, but it has to be presumed that the appellant has no interest in prosecuting the matter before this authority. Furthermore, the Forum rejected the appeal at the threshold by addressing a letter. This procedure is not correct. The Forum is not expected to entertain correspondence by addressing letters to the parties. On the other hand, it is duty of the Forum to pass an order even on a complaint which is not entertained by the authority as in the case of contest orders.

6. The approach of the appellant to this authority ignoring the provisions of law and the remedy available to him before the competent authority cannot be entertained by this authority. He can approach the Forum thereafter Appellate authority i.e, Vidyut Ombudsman after exhausting all the remedies available to him. Entertaining the appeal without exhausting the remedy available is not correct procedure. He is at liberty to approach the appellate authority i.e, Superintending Engineer / Assessment for redressal of his grievance. He is also at liberty to approach the Forum after exhausting all the remedies available under the Act. After approaching Superintending Engineer / Assessment, he can approach the Vidyut Ombudsman.

7. With this observation, the appeal is dismissed as not maintainable at this stage. No order as to costs.

This order is corrected and signed on this day of 4th June 2011

VIDYUT OMBUDSMAN