

BEFORE THE VIDYUT OMBUDSMAN

Present

K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated: 14 -09-2011

Appeal No. 33 of 2011

Between

Sri Locharla Ramanaji (Hon'ble President)
Gautamnagar Residents Welfare Association,
Door No.6-289(Old 6-191)
Gautam Nagar, Vepagunta (Post)
Visakhapatnam – 47.

... Appellant

And

1. Assistant Engineer / operation / Vepagunta
2. Assistant Divisional Engineer / operation / Pendurthy
3. Divisional Engineer / Operation / Zone – III / Visakhapatnam

....Respondents

The appeal / representation dated 18.08.2011 (received on 22.08.2011) of the appellant has come up for final hearing before the Vidyut Ombudsman on 09.09.2011 at Visakhapatnam. Sri Locharla Ramanaji, Appellant present and Sri G.Raj Kumar, DE/O/Zone-III/Visakhapatnam, Sri K.Gopala Rao Naidu ADE/O/Pendurthy and Sri G.Bhaskar Rao AE/O/Vepagunta 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 claiming that the existing DTR at Gautam Nagar Colony, 69th ward, GVMC/VSP is to be shifted to the safest place to avoid future electrical accident as a precautionary measure.

This was registered as CG No. 62/11-12 and a notice was served on the respondent.

2. The respondent No.3 has submitted his written submissions as hereunder:

- 1) *"The complainant made a complaint for shifting of DTR SS-26, Gowthamnagar, Vepagunta to a safe place during 10/2008 and the complainant was addressed vide Lr.No.28/11/08 that the DTR was erected by Department and in a safe place with the consent of local people at that time and there is no obstruction to any vehicle or pedestrians.*
- 2) *The complainant also made a complaint on 05-10-2009 in "Prajavani" requesting to shift the DTR from the existing location.*
- 3) *In response to the above complaint in 'Prajavani' the complainant was addressed vide letter Dt.12-11-2009 by Superintending Engineer/Operation/Visakhapatnam that the DTR at SS-26 Gowthamnagar is no obstruction to vehicles or pedestrians and does not require any shifting. The same was submitted to Hon'ble Dist. Collector also.*
- 4) *As per the instructions of Chief General Manager/O&CS the site was inspected by Divisional Elect. Engineer/Operation/Zone-III on 27-10-09 and submitted a report on 29-10-10 along with photographs, wherein it is submitted that there is no requirement of shifting of DTR as it is not in dangerous position in view clear CC road formation and the photographs depicts the same.*
- 5) *The complainant also under RTI requested information and the same was furnished from time to time.*
- 6) *The complainant there after approached AP information commission that the information sought by him was not furnished to him.*
- 7) *The Divisional Elect. Engineer/Operation/Zone-III has attended the hearing before Hon'ble Commissioner, AP information Commission along with information submitted vide Lr.No.100/11, Dt.17-01-2011. A copy of the same is enclosed for kind perusal.*
- 8) *Vide order dt.10-02-2011, AP information commission closed the appeal of the complainant with a warning to PIO.*
- 9) *The complainant was informed several times that the DTR erected at a safe place with the consent local orally taken by the then officials and the DTR is located within the CC road margin, duly provided with fencing and it is not at all obstruction to any vehicle or pedestrians and the same can be seen in the enclosed copy of photographs.*
- 10) *Hence, there is no need to shift the DTR as such and there are no merits in his request.*
- 11) *Hence, the Hon'ble CGRF may be pleased to issue favorable orders as deemed fit under the circumstances and facts of the case please."*

3. After hearing both sides and after considering material placed before the Forum, the Forum passed the following order:

- *“The Forum after verification of the photographs and written submission of the 3rd Respondent concludes that there no need to shift the DTR which is located within the CC road margin. The DTR was also provided with fencing and it is not at all obstruction to any vehicle or pedestrians.*

With the above direction the CG No. 62/11-12 is disposed off with no costs.”

4. The appellant Sri L.Ramanaji present and the respondents Sri G.Raj Kumar, DE/O/Zone-III/Visakhapatnam, Sri K.Gopala Rao Naidu ADE/O/Pendurthy and Sri G.Bhaskar Rao AE/O/Vepagunta present on 09.09.2011, at the time of hearing at Visakhapatnam. The appellant stated that the DTR is fixed not in the road margin but by encroaching the road and width of the road is condensed and heavy vehicles are not passing through and that number of trees are there and there is every possibility of failure of DTR and also fire accidents etc.

5. Whereas the respondents DE/O/Zone-III/Visakhapatnam has stated that he has personally inspected the same and they have not encroached on the road margin and the same is located in the road margin itself and the appellant is not the president of the society and he is in the habit of harassing officers in one form or the other and requested this authority to drop the proceedings.

6. Now, the point for consideration is, “Whether the appellant is entitled to the relief as prayed for?”

7. It is clear from the record that the respondents have submitted a report to the Collector stating that there was no obstruction to any vehicle or pedestrians due to the location of the DTR. It is also stated that the very formation of the road clearly discloses the formation of the road and location of the DTR; and that the DTR is erected at the safest place with the consent of the local people orally and it is located within the CC road margin duly provided with fencing and it is not at all causing obstruction to any vehicle or pedestrians. The xerox photographs submitted

at the time of hearing of the appeal discloses that there is a drain behind the DTR fencing. The DTR is fenced in all directions. Whereas the formation of the CC road clearly shows that it is far away from the fence and they are clearly shown in the photographs. The appellant submitted a plan through post drafted by Sri K.Adinarayana, Licenced Surveyor which shows that the width of the road is only 11'6" but on either side of the road, it is 13'6".

8. It is very clear from the above said aspects about the location of the road and the DTR. So far as the legal aspect on this point is concerned, that a person is not entitled to encroach upon the road and he cannot take that plea that there is sufficient margin to the public to pass through, since every person is entitled to enjoy every inch of the public road. In this case if there is any obstruction to the passage to the public or vehicles, the encroachment has to be removed by approaching the competent court of law for its removal or the GVMC for its removal. The removal of the DTR in the road margin cannot be treated as deficiency of service as it is purely a civil dispute. The department is not expected to encroach on the road and they have to place the DTR in a safest place and in a safest manner, but not by encroaching on the road. If the department has encroached as pointed out by the appellant, it is for him to approach the competent court for the removal of the encroachment as it is not within the purview of the Forum or within the purview of this authority. The appellant can approach individually or through his association for its removal by moving a competent civil court or other legal proceedings in a competent court.

9. In the light of the above said observations, the appeal preferred by the appellant is not sustainable and the same 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 14th September 2011.

VIDYUT OMBUDSMAN