



VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA
First Floor 33/11 kV substation, Hyderabad Boats Club Lane
Lumbini Park, Hyderabad - 500 063

:: Present:: **Smt. UDAYA GOURI**

Wednesday the Ninth Day of May 2018

Appeal No. 22 of 2018

Preferred against reply Dt.03.04.2018 of CGRF

vide D.No.01/2018-19

Between

Sri. S. Anji Reddy and One other, H.No.9-97/2, Kushaiguda,
Hyderabad - 500 062. Phone: 9493185576.

... Appellants

AND

1. The AE/OP/Mirjalguda/TSSPDCL/RR District.
2. The ADE/OP/Malkajgiri/TSSPDCL/RR District.
3. The DE/OP/Malkajgiri/TSSPDCL/ RR District.
4. The SE/OP/RR East Circle/TSSPDCL/RR District.

... Respondents

The above appeal filed on 04.04.2018, coming up for final hearing before the Vidyut Ombudsman, Telangana State on 03.05.2018 at Hyderabad in the presence of Sri. S. Anji Reddy and Sri. V. Satyanarayana - Appellants and Sri. Mahesh Kulkarni - AE/OP/Mirzalguda, Sri. R. Shyam Kumar - ADE/OP/Malkajgiri, Sri. E.S.Suchandernath - DE/OP/Sainikpuri for the Respondents and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

AWARD

The Appellants namely Sri. Anji Reddy and Sri. B. Satyanarayana who are the possessors of plot No. 119 and 120 in the layout made by Annapurna Housing Society situated at JLNS Nagar, Malkajgiri pleaded before the CGRF that a new transformer is being under erection pertaining to residential apartment under construction in plot No.s 97, 98, 101 & 102 of the society layout by Vinayaka Constructions and that the location of erection of the transformer was on the edge of the south east side of their premises touching their plot boundary and that the Respondents have not maintained sufficient clearance and hence the proximity of transformers would lead to irreparable

loss to their land, obstruct their entrance their plots from north eastern side and is also likely to cause electrical mishaps and as such prayed before the CGRF to direct the concerned to shift the transformer with sufficient clearance.

2. The CGRF rejected the plea of the Appellants under Clause 2.37 of Regulation 3 of 2015 quoting that the dispute is of civil nature between the parties and as such advised the Appellants to approach a Civil Court or the concerned authorities.

3. Hence on the basis of the said rejection by the CGRF of their plea the Appellants approached the Vidyut Ombudsman seeking the said relief. Hence the same was numbered as an appeal before the Ombudsman and notices were issued to both parties. On the basis of the notice issued by the Ombudsman the Respondent being represented by ADE/OP/Malkajgiri vide Lr.No. 12 of 11.4.2018 submitted his written statement.

4. On the basis of the said averments on both sides, the points in issue are:-

1. Whether the rejection of complaint lodged by the Appellants with the CGRF on Clause 2.37 of Regulation 3 of 2015 is in accordance with the provisions of TSERC?
2. Whether the erection of the transformer is without sufficient clearance to the Appellants namely Anji Reddy and B. Satyanarayana who are the owners of the Plot Nos. 119 and 120 in Annapurna Housing Society situated at JLNS Nagar, Malkajgiri ?

Issue No.1

5. In view of the rejection of the CGRF the provisions of Clause 2.37 of Regulation 3 of 2015 is perused and reproduced as under:

2.37 The Forum may reject the grievance at any stage under the following circumstances:

- a. Where proceedings in respect of the same matter or issue between the same Complainant and the Licensee are pending before any court, tribunal, arbitrator or any other authority, or a decree or award or a final order has already been passed by any such court, tribunal, arbitrator or authority as the case may be;
- b. Where cases fall under Sections 126,127,135 to 139, 152 and 161 of the Act;

- c. Where the grievance has been submitted two years after the date on which the cause of action arose or ceases to continue, whichever is later.
- d. In the cases, where grievances are:
 - a. Frivolous, vexatious, malafide;
 - b. Without any sufficient cause; or
- c. Where there is no prima facie loss or damage or inconvenience caused or to be caused to the complainant or the consumers who are represented by an association or group of consumers.

Provided that no grievance shall be rejected in writing unless the Complainant or Association of persons has been given an opportunity of being heard.

6. A perusal of the record show that the Appellants has not been given an opportunity to support his grievance before the CGRF and his plea was rejected as such the finding of the CGRF shows that the rejection of the plea taken by the Appellants, cannot be justified in his absence without hearing him nor the nature of relief sought by the Appellants is of civil nature as it is mandatory for the Licensee to maintain sufficient clearance from the electrical lines equipment which passes above or adjacent to or terminates on any building as such provided under Indian Electricity Rules 1956 as it mandates that minimum clearance is to be maintained from accessible point and that it is the duty of the Licensee to maintain such clearance in order to avoid electrical mishaps.

Issue No. 2

7. The contention of the Appellants is that the erection of the transformer is without sufficient clearance to the premises of the Appellants i.e. Plot No.s 119 and 120.

8. The Respondents represented by the ADE/OP/Malkajgiri, vide Lr.No.12 dt.11.04.2018 has submitted the written submissions before the Ombudsman stating that the plinth for erection of the new transformer is within the premises of the newly under construction apartment on the South East corner. Since the plinth for the DTR(transformer) was constructed in the extreme corner, they have directed the builder/contractor to shift the plinth location for further inside of the premises, to which they have agreed. While enclosing the photographs of the premises, it was stated that the new location of the plinth is nearly 2 meters inside the premises and

sufficient clearances will be maintained. Subsequently, after the erection of the DTR plinth at a new location, just aside for a distance of two to three metres to the premises of the Appellants, the ADE/OP vide Lr.No.268 dt.1.5.2018 again displayed the photographs showing the clearances maintained.

9. The Appellants filed a written statement before the Ombudsman stating that they are satisfied with the clearances maintained at the new location of erection of the DTR, but has added another grievance to their earlier complaint and proposed to direct the Respondents to lay an underground cable instead of overhead line for the said work but the Respondents rejected this proposal.

10. Hence the Indian Electricity Rules 1956 was perused and found that Clause 79 of the said rules mandates that invariably the clearances shall be maintained from the buildings of low and medium voltage and service lines, hence the same is reproduced as under:

1. Where a low or medium voltage, overhead line pass above or adjacent to or terminate on any building, the following minimum clearances from any accessible point, on the basis of maximum sag, shall be observed:-
 - a. For any flat roof, open balcony, verandah roof and lean-to-roof-
 - i. When the line passes above the building a vertical clearance of 2.5 metres from highest point, and
 - ii. **When the line passes adjacent to the building a horizontal clearance of 1.2 metres from the nearest point shall be maintained**

11. As the clearances maintained with the erection of the transformer on a new location is 2 metres, which is well outside the minimum clearance to be maintained as per the above said Clause i.e. 1.2 metres as reported by the Respondents and as prayed by the Appellants to instal the transformer according to the procedures laid down to avoid electrical hazards the Ombudsman finds that the issue is addressed by the Respondents in the right spirit.

12. The new plea of the Appellants before the Ombudsman for laying underground cable instead of overhead line is not considered by the Ombudsman, as such a plea is not taken by the Appellants before the CGRF and hence the Respondents are at liberty to take their own decision as per their departmental procedures.

13. In view of the mutual understanding between the parties, the matter is disposed of as mutually settled. And hence the Appeal is disposed of accordingly.

14. The licensee shall comply with and implement this order within 15 days from the date of receipt of this order under clause 3.38 of the Regulation 3 of 2015 of TSERC.

TYPED BY Clerk Computer Operator, Corrected, Signed and Pronounced by me on this the 9th day of May, 2018.

Sd/-

Vidyut Ombudsman

1. Sri. S. Anji Reddy and One other, H.No.9-97/2, Kushaiguda, Hyderabad - 500 062. Phone: 9493185576.
2. The AE/OP/Mirjalguda/TSSPDCL/RR District.
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5. The SE/OP/RR East Circle/TSSPDCL/RR District.

Copy to :

6. The Chairperson, Consumer Grievance Redressal Forum, Greater Hyderabad Area, TSSPDCL, Vengal Rao Nagar, Erragadda, Hyderabad - 500 045.
7. The Secretary, TSERC, 5th Floor Singareni Bhavan, Red Hills, Lakdikapul, Hyd.