



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

:: Present:: R. DAMODAR

Wednesday, the Fifteenth Day of February 2017

Appeal No. 74 of 2016

Preferred against Order Dt. 14.12.2016 of CGRF In

CG.No: 524/2016-17 of Hyderabad South Circle

Between

Sri. Mir Baquer Hussain Razvi, H.No. 23-1432/5, Aliza Kotla, Hussaini Kothi,
Beside Hussaini Masjid, Hyderabad - 500 023.
Cell No. 7893137258 & 9866482677.

... Appellant

And

1. The ADE/OP/Santosh Nagar/TSSPDCL/Hyderabad.
2. The AAO/ERO/Chanchalguda/TSSPDCL/Hyderabad.
3. The DE/OP/Asmangadh/TSSPDCL/Hyderabad.
4. The SE/OP/Hyd.South Circle/TSSPDCL/Hyderabad..

... Respondents

The above appeal filed on 22.12.2016 coming up for final hearing before the Vidyut Ombudsman, Telangana State on 08.02.2017 at Hyderabad in the presence of Sri. Mir. Baquer Hussain Razvi - Appellant and Sri. G. Mohan - ADE/OP/Santosh Nagar and Sri. M.A.Kaleem - AAO/ERO/Chanchalguda for the Respondents and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

AWARD

The Appellant claimed that when he applied for release of 29 new service connection to his premises, the 1st Respondent/ADE/O/Santosh Nagar required the Municipal Permission for the premises. He has not obtained any municipal permission, but claimed that he had submitted an application under the B.R.S.(Building Regularization Scheme). He claimed that he has paid the required amount for release of

the Service Connections by way of a DD on 30.12.2015 and so far, he has not been sanctioned the new service connections and therefore, he filed a complaint before CGRF and sought a direction for sanction of the new service connections.

2. Before the CGRF, he made similar oral representation. The 3rd Respondent/DEE/O/Asmangadh represented that after registration of applications of the Appellant for release of 29 new service connections for the premises, a notice was issued to him on 10.07.2015 to produce approved Municipal Plan of the building and in response, the Appellant furnished a copy of application filed under BRS. He stated that soon after receipt of approval from GHMC, the service connections applied for by the Appellant would be released.

3. On consideration of the material on record, the CGRF noted that the 1st Respondent/ADE/O/Santosh Nagar had issued a notice/Lr.No. 409/15 dt 10.7.2015 to the Appellant intimating that he should furnish the following documents:

- a. Attested copies of GHMC plan
- b. Attested Copies of permission order
- c. Occupancy certificate shall be enclosed.

and the Appellant failed to get the documents under notice to enable the Respondents to consider the application for release of the new service connections and therefore, disposed of the complaint through the impugned orders directing the Appellant to produce the documents notified for release of the service connections.

4. Aggrieved and not satisfied with the impugned orders, the Appellant preferred the present Appeal claiming that the Appellant had applied under BRS scheme which is being kept pending due to numerous cases and pendency of PIL's on the file of the Hon'ble High Court of Judicature at Hyderabad and thus, it is not possible to submit the Municipal approved Plan within the stipulated time as given by the Forum and requested to issue orders for release of 29 service connections.

5. The Appellant through letter dt.7.2.2017 claimed that the CGRF has not considered the PIL pending before the Hon'ble High Court and the fact that the service connections were released to the premises of M/s Basith Builders at Santosh Nagar

Colony during the year 2015 and at Akbar Bagh during 2016, in spite of non submission of approved municipal plans. The Appellant has produced photos and estimates for service connections as proof of these two constructions and sought release of 29 connections as in the case of those builders to his premises.

6. The 1st Respondent ADE/O/Santosh Nagar through letter dt.6.2.2017 in response to the claim of the Appellant that even without sanctioned plans and occupancy certificates Service Connections were released, asserted that “no services were released to multi storied apartments consisting of 25 flats or more in Santosh Nagar Sub Division area without GHMC approval.” The Appellant submitted the photographs of the building at Santosh Nagar and another building at Akbar Bagh, One estimate without signature and another a copy of estimate prepared by ADE/Distribution/XXII/Chanchalguda in support of his contention.

7. Mediation could not be taken up, because of the nature of the claim of the Appellant and hence, the matter is being disposed of on merits.

8. On the basis of the material on record and contentions of the parties, the following issues arise for determination:

1. Whether the Respondents are justified in demanding approved Municipal Plan and occupancy certificate for the premises for release of 29 service connections in favour of the Appellant?
2. Whether pending determination of the Application of the Appellant under the BRS, the Appellant is entitled to secure 29 new service connections?
3. Whether the impugned orders are liable to be set aside?

Arguments Heard:

Issues 1 to 3

9. The Appellant constructed a building without initially securing Municipal Sanction. He applied for regularisation of the construction under BRS(Building Regularization Scheme). He contended that he had submitted an application for BRS and because of the orders of the Hon’ble High Court, his application and similar applications are not being processed now. The Appellant has relied on orders dt.20.6.2016 of the Hon’ble High Court in WP(PIL) No. 63 of 2016 between Forum for Good Governance and the State of Telangana, Represented by its Principal Secretary, Municipal administration and urban development and 4 others, wherein the following order was passed:

“ Heard Mr. Sivaraju Srinivas, learned counsel for the petitioner.

Mr.Mahender Reddy, learned Special Government Pleader seeks time to take instructions and file counter-affidavit. Learned counsel for the remaining respondents also make the same prayer.

Stand over to 18.7.2016.

In the meanwhile, the State Government may receive applications seeking regularisation in terms of the notification dt.02.11.2015, but they shall not pass final orders on the Applications.”

10. Because of the orders of the Hon’ble High Court, it appears that the GHMC has not processed the application of the Appellant. The Appellant is not able to produce the documents:

- a) Attested copies of GHMC plan
- b) Attested copies of permission order
- c) Occupancy certificate .

as requested by the ADE/O/Santosh Nagar/Respondent No.1 for consideration of application for release of 29 new Service Connections.

11. The State Electricity Regulatory Commission, through letter dt.20.12.2014 has referred to the decision of the Hon’ble High Court dt 11.11.2014 in WP No 33904/2014 for production of Occupancy Certificate as a condition for sanction of service connection and directed the DISCOM to follow the directions of the Hon’ble High Court.

The Hon’ble high Court in similar case of K.Mahender Vs The TSSPDCL in WP No. 32906 of 2014 by orders dt.5.11.2014 (2015(2)ALD 728) directed as follows:

“In my opinion, so long as respondent No.1 who is a licensee under the provisions of the Electricity Act,2003, does not amended its supply regulations/conditions in tune with the Government policy qua levy and collection of tariff higher than that prescribed under its Regulations, such levy cannot be legally sustained. Being a licensee, it cannot charge its consumers higher tariff than what is prescribed by the tariff regulations, approved by the Regulatory Commission.”

“Before closing this case, this Court feels it imperative to observe that the petitioner cannot violate law and insist on the power distribution licensee to continue to supply power to it without obtaining Occupancy Certificate,

which, admittedly, is a mandatory requirement under Section 455 of the Greater Hyderabad Municipal Corporation Act,1955. The respondents are, therefore, left free to call upon the petitioner to produce the Occupancy Certificate in accordance with the said provision within a stipulated time, If the petitioner fails to produce such certificate, they shall be free to disconnect the power supply to him and terminate the power supply agreement. The Respondents are also left free to refuse release of power supply to other similarly situated consumers if they fail to produce occupancy certificate within a stipulated time.”

12. The order of the Hon’ble High Court mandates production of Occupancy Certificate even for continuation of power supply. Based on this judgement, TSERC issued a circular directing the DISCOMs to follow the orders of the Hon’ble High Court which resulted in the Respondents refusing to sanction 29 new service connections to the Appellant on failing to produce attested copies of GHMC Plan, attested copies of permission order and Occupancy Certificate. Though the Appellant’s application under BRS pursuant to the order of the Government is pending consideration, it is subject matter of further orders in the WP(Pil) No.63 of 2016 of the Hon’ble High Court of Judicature at Hyderabad. In view of the facts and circumstances of the case, there can be no direction to the DISCOMs to release 29 new service connections to the premises of the Appellant.

13. The Appellant vehemently contended that when service connections were released to other buildings constructed without municipal sanction and without producing Occupancy Certificates, his case should also be considered on similar grounds. He filed photos of 2 buildings accompanied by one estimate for the building at Santosh nagar and one copy of signed estimate for One Mr. Basith Ali for a building at Akbar Bagh. The 1st Respondent in his reply dt.6.2.2017 stated that no service connections were released to multi storied apartments consisting of 25 flats or more without GHMC approval. It is not a clear cut denial, but a clever one. If the service connections were released in favour of these two buildings without Municipal sanction and Occupancy Certificate, it should be a matter of serious action against those responsible. The 1st Respondent has already reported that action has been taken against the responsible persons for release of the service connections to the buildings without Occupancy Certificate. It cannot be said that one wrongful action entitles another person to seek benefits arising out of the wrongful action. The Appellant has to secure BRS

under the scheme and then apply for new service connections and till such time, he has to wait. The refusal to sanction 29 new service connection to the Appellant as confirmed by the impugned orders, is upheld. The Issues are answered accordingly.

14. In the result, the Appeal is disposed of confirming the impugned orders.

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

Typed by CCO, Corrected, Signed and pronounced by me on 15th day of February, 2017.

Sd/-

VIDYUT OMBUDSMAN

1. Sri. Mir Baquer Hussain Razvi, H.No. 23-1432/5, Aliza Kotla, Hussaini Kothi, Beside Hussaini Masjid, Hyderabad - 500 023.
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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, Lakdikapool, Hyd.