



BEFORE THE VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA

First Floor 33/11 kV Substation, Hyderabad Boats Club Lane
Lumbini Park, Hyderabad - 500 063

**PRESENT : SRI MOHAMMAD NIZAMUDDIN
VIDYUT OMBUDSMAN**

FRIDAY THE TWENTY NINTH DAY OF JULY
TWO THOUSAND AND TWENTY TWO

Appeal No. 10 of 2021-22

Between

Sri Palabatla Manish, s/o. Sri Satish Kumar, aged about (26) years,
H.No.18-397, Sy No. 263, Pargi Road, Shadnagar, Farooq Nagar Municipality,
Ranga Reddy District. - 509 217. Cell: 9866633081/7036205211.

.....Appellant

AND

1. The Superintending Engineer / Operation /Rajendra Nagar Circle /
TSSPDCL / Ranga Reddy District.
2. The Divisional Engineer / Operation / Shadnagar / TSSPDCL / Ranga
Reddy District.

..... Respondents

This appeal is coming on before me for final hearing on 21.07.2022 in the presence of Kumari Nishtha, authorised representative of the appellant and Sri D. Veera Swamy - SAO/OP/Rajendra Nagar representing the respondents and having stood over for consideration till this day, this Vidyut Ombudsman passed the following:-

AWARD

This appeal is preferred aggrieved by the Award passed by the Consumer Grievances Redressal Forum -2 (Greater Hyderabad Area), Hyderabad - 45 (in short 'the Forum') of Telangana State Southern

Power Distribution Company Limited (in short 'TSSPDCL'),
in C.G.No.35/2020-21/Rajendra Nagar Circle dt.28.06.2021.

CASE OF THE APPELLANT

2. The appellant has purchased the open land measuring 1160.70 sq. yards in Survey No. 263, Pargi Road, Shadnagar, Farooq Nagar Municipality, Ranga Reddy District under a registered sale deed dated 09.12.2019 from one Radha Krishnan Agarwal. It is a private land. M/s. Sheetal Shipping and Metal Processors Ltd., (in short 'the industry') existing earlier was dismantled. The appellant has nothing to do with the said industry.

3. Respondent No.1, vide his letter No. SE / OP / RJN / SAO / JAO / HT / D.No.45/21 Dated 07.05.2021 (in short 'the impugned letter'), demanded the appellant to pay a sum of Rs 4,98,81,804/- which is the C.C. bills for the Service Connection No. RJN 1890 (Old S.C. No. MBN361) apart from other amounts pertaining to the industry, on or before 31.05.2021. It is also mentioned in the impugned letter / notice that on failure to pay the said amount the residential Service Connection No. S010 14236 of the petitioner existing at the residence No. 16-132 at Farooqnagar, Shadnagar shall be ordered for disconnection.

4. The electricity power supply of the industry was not in any manner transferred to the appellant and there is no connection with the affairs of the earlier industry. The power supply Service Connection to the domestic use of the appellant is quite different and has nothing to do with the arrears of the industry.

Therefore, it is prayed to declare the impugned letter as illegal, not valid and without jurisdiction and to direct respondent No.1 not to disconnect the Service Connection of the appellant.

CASE OF THE RESPONDENTS

5. In the written submissions filed by respondent No.1 before the Forum, it is inter-alia, submitted that the Service Connection of the industry was terminated on 29.05.2015 due to non-payment of C.C. dues. As per Clause 4.8.1 of Regulation 7 of 2013 (Second Amendment to the Regulation No. 5 of 2004) of Andhra Pradesh Electricity Regulatory Commission (in short "Clause 4.8.1), the respondents are entitled to disconnect the other services of the consumer within the area of the respondents, though they are distinct and are governed by separate agreements and though no default occurred, if the earlier consumer commits default. Therefore, it is prayed to dismiss the complaint.

REJOINDER

6. In the rejoinder filed by the appellant before the Forum, it is submitted that as per the Amended Clause 4.8.1 of Regulation 7 of 2013, the respondents cannot disconnect the Service Connection of the appellant, who is a third-party.

AWARD OF THE FORUM

7. After hearing both sides and after considering the material on record, the learned Forum has rejected the complaint of the appellant mainly on the ground that W.P.No. 17271 of 2009, W.P.No. 9159 of 2004 (W.A. No. 2159 of

2004), W.P. No. 678 of 2000 and also S.L.P.No. 13785 - 13937 of 2012 are pending.

8. Aggrieved by the Award passed by the Forum, the present appeal is preferred, contending among other things, that the Forum has not considered the material placed before it properly. It is also submitted that the liability of the industry cannot be fastened on the appellant.

GROUND OF THE APPEAL

9. In the grounds of appeal it is submitted that the Award of the Forum is illegal, unjust and unsustainable and without assigning any reasons and therefore it is prayed to set aside the Award of the Forum and pass Award as stated above.

10. In the written submissions filed by respondent No.1, it is, inter-alia, submitted that the Service Connection of the appellant is a link service to the industry, therefore the respondents are entitled to disconnect all or any other service connected to the consumer who fails to pay the arrears of the electricity bills within their area. The appellant has purchased the land from one Mr. Radha Krishnan Agarwal, Managing Director of the industry. Therefore, the appellant is not a third-party.

11. In the reply filed by the appellant to the written submissions of respondent No.1, it is reiterated that the appellant is a third-party to the industry

and that he purchased the personal property of his vendor who has a right to sell it. Therefore, it is prayed to allow the appeal.

ARGUMENTS

12. The learned authorised representative of the appellant has submitted that the respondents are not authorised to disconnect the Service Connection of the appellant who is a third-party to the industry and as such the impugned letter is illegal. Therefore it is prayed to allow the appeal.

13. On the other hand, on behalf of the respondents, it is argued that since the appellant has purchased the plot from the Managing Director of the industry, the respondents have every right to disconnect the Service Connection of the appellant as the industry fell due to pay the arrears of electricity bills. Therefore it is prayed to reject the appeal.

POINTS

14. The points that arise for determination are:-
- i) Whether the impugned letter issued by respondent No.1 proposing to disconnect the Service Connection of the appellant is valid and legal ?
 - ii) Whether the Award passed by the Forum is liable to be set aside?
and
 - iii) To what relief.

SETTLEMENT BY MUTUAL AGREEMENT

15. Both the parties appeared before this authority on 21.07.2022. Efforts were made to reach a settlement between the parties through the process of conciliation and mediation. However, no settlement could be reached. The

hearing, therefore, continued to provide reasonable opportunity to both the parties to put-forth their case and they were heard.

REASONS FOR DELAY IN DISPOSING OF THE APPEAL

16. Since I took charge as Vidyut Ombudsman on 01.07.2022 and since there was no regular Vidyut Ombudsman earlier, the appeal was not disposed of within the prescribed period.

POINTS (i) and (ii)

ADMITTED FACTS

17. The admitted facts are that the appellant is having electricity Service Connection No. S010 14236 to his residence for which he has been paying necessary bills to the licensee / respondents regularly. There is also no dispute that the appellant purchased a plot from his vendor under a registered sale deed dt. 09.12.2019.

CRUX OF THE CASE

18. The claim of the respondents is that the industry fell due to pay arrears of the electricity charges and its HT Service Connection No.RJN 1890 was terminated. Since the appellant purchased a plot from his vendor, who is connected to the industry, the respondents want to disconnect the Service Connection of the appellant on the ground that it is a link service of the industry to recover the arrears of the industry. The appellant claims that he is a

third-party to the industry and he is nothing to do with the dues of the industry. At

this stage it is necessary to refer to Clause 4.8.1 which reads as under:-

“Where any consumer defaults in payments of charges for the supply of electricity, and or any other sums payable to the Company under the contract of supply agreement, the Company may, without prejudice to its other rights cause to disconnect all or any of the other services of the consumer within the area of supply of Licensee, though such services be distinct and are governed by separate agreements and though no default occurred in respect thereof.”

ANALYSIS OF CLAUSE 4.8.1

19. Now it is necessary to analyse the ingredients of Clause 4.8.1 stated above. In order to attract the Clause 4.8.1, there must be a consumer of the electricity. That consumer must commit default in payment of electricity charges to the respondents / licensee. Then the respondents have every right to disconnect the other Service Connection of the said consumer within their area. A careful reading of Clause 4.8.1 makes it crystal clear like a cloudless sky that the ‘consumer’ referred to in the said Clause is the consumer who committed default in paying arrears of electricity bills. Likewise the consumer again referred to in the said Clause is the same person who committed default in payment of arrears due. Thus any consumer connected to the industry comes within the definition of Clause 4.8.1. In this case the appellant is nothing to do with the industry. He is a third-party. In other words, for more clarity, if any person who managed the industry while it was running in any capacity can be termed as a consumer. Their Service Connection elsewhere, within the jurisdiction of the

licensee can be dis-connected. Thus the impugned letter was addressed to the appellant who is a third-party.

PLOT PURCHASED BY THE APPELLANT

20. This authority will not go into the title dispute etc., of any property between the parties. It only verifies the prima-facie case of the parties. The appellant claims that he purchased the plot under a registered sale deed dated 09.12.2019. This document shows that one Radha Krishnan Agarwal sold the sold plot to the appellant. The source of title of the vendor of the appellant is mentioned in the sale deed stating that he purchased Ac.0.24 guntas of land in Sy.No. 263 at Pargi road, Shadnagar, Farooq Nagar Municipality. There is no reference of the property of the industry in question. These factors go to show that the plot purchased by the appellant is the private property of his vendor and it is nothing to do with the property of the industry. The learned authorised representative of the appellant submitted that the industry owned Ac.0.34 guntas of land, which is distinct from the present land. The respondents have not produced any iota of evidence to show that the plot purchased by the appellant is part of the said Ac. 0.34 guntas of property of the industry. Therefore, the respondents cannot proceed to disconnect the Service Connection of the appellant situated far away from the plot purchased by him as link service.

21. It is also submitted that in the instant case the Service Connection is in the name of one Anand Babu, who is not connected to the appellant. This circumstance also supports the claim of the appellant that impugned letter was issued without proper authority and verification.

PENDENCY OF CASES

22. The Forum may reject the grievance at any stage under the following, among other grounds, as per Clause 2.37 of the Telangana State Electricity Regulatory Commission (Establishment of Mechanism for Redressal of Grievances of the Consumer) Regulation 3 of 2015 which reads as under:

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;

xxxxx

When any proceeding is pending in respect of the same matter or issue between the same parties before any Court or Tribunal etc., the Forum can reject the grievance. In the present case the respondents have not filed any copies of documents to show that any case is pending between the appellant and the respondents herein with respect to the same matter. Therefore the present grievance is clearly maintainable.

23. The respondents have relied upon the judgement of the Hon'ble Supreme Court in TSSPDCL v. SRIGDHAA BEVERAGES (C.A.No. 1815 of 2020) out of Spl. Leave Petition (C) No. 19292/2018) dt.01.06.2020, wherein it is held that the licensee TSSPDCL is having a right to demand the arrears of the last owner from the purchaser. There is no dispute about the proposition, but the appellant is not the purchaser of the property of the industry. It is a private property not connected to the industry. Therefore this judgement is not useful to the respondents.

24. The learned authorised representative of the appellant has relied upon the judgement of the Hon'ble Supreme Court in ASST. ENGINEER (D1) AJMER VIDYUT NITRAN NIGAM LTD AND ANR v.RAHAMATULLAH KHAN alias RAHAMJULLA in Civil Appeal No. 1672 of 2020 arising out of Spl. Leave Petition(c) No. 5190 of 2019 dt. 18.02.2020, wherein it is held that the licensee is entitled to disconnect electricity supply after the expiry of the limitation period of two years, if it is shown continuously to be recoverable as arrears of electricity supplied. There is no dispute about the said proposition. But the point involved in the instant appeal is regarding disconnection of link service. Therefore this judgement is not useful to the appellant.

25. Since the appellant does not fit in the definition of 'consumer' as far the words occurred in Clause 5.9.4.3 of GTCS, that Clause is not helpful to the respondents. Having regard to the facts and circumstances of the case and the

law discussed above, I hold that the appellant is not a consumer in respect of the Service Connection of the industry which fell due to pay arrears of the electricity bills to the respondents and he is a third-party. Therefore, I hold that the impugned letter issued by respondent No.1 proposing to disconnect the Service Connection of the appellant is not valid. Hence, the Award passed by the Forum is liable to be set aside. These points are decided accordingly in favour of the appellant and against the respondents.

POINT No. (iii)

26. In view of the findings on points (i) and (ii), the appeal is liable to be allowed.

RESULT

27. In the result, the appeal is allowed without costs, setting aside the Award passed by the Forum and declaring the impugned letter as illegal, not valid and without jurisdiction. Accordingly, respondents 1 and 2 are directed not to disconnect the power supply of Service Connection number S010 14236 mentioned in the impugned letter.

Typed to dictation by Office Executive-cum-Computer Operator, corrected and pronounced by me on this the 29th day of July 2022.

Sd/-

Vidyut Ombudsman

1. Sri Palabatla Manish, s/o. Sri Satish Kumar, aged about (26) years, H.No.18-397, Sy No. 263, Pargi Road, Shadnagar, Farooq Nagar Municipality, Ranga Reddy District. - 509 217. Cell: 9866633081/7036205211.
2. The Superintending Engineer / Operation /Rajendra Nagar Circle / TSSPDCL / Ranga Reddy District.
3. The Divisional Engineer / Operation / Shadnagar / TSSPDCL / Ranga Reddy District.

Copy to

4. The Chairperson, Consumer Grievances Redressal Forum -Greater Hyderabad Area, TSSPDCL, GTS Colony, Vengal Rao Nagar, Hyderabad.

APPEAL NO. 10 OF 2021-22