



BEFORE THE VIDUYUT 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
VIDUYUT OMBUDSMAN**

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

Appeal No. 15 of 2021-22

Between

1. Radha Krishna Agarwal, s/o. S.N.Agarwal, aged about 63 years
r/o. H.No.1-8-92 to 102, Plot No.14&15, Lakshmi Narayana Colony,
P.G.Road, Secunderabad - 500 003. Cell: 9866633081/7036205211.
2. Shyam Sundar Agarwal, s/o. S.N. Agarwal, aged about 61 years,
r/o. H.No.1-8-92 to 102, Plot o. 14 & 15, Laxminarayana Colony,
P.G.Road, Secunderabad - 500 003 Cell: 9866633081 / 7036205211.

.....Appellants

AND

1. The Superintending Engineer / Operation / Rajendra Nagar Circle/
TSSPDCL/Hyderabad.
2. The Superintending Engineer / Operation / Secunderabad Circle/
TSSPDCL/Hyderabad.
3. The Chief General Manager (Finance)/Corporate Office/
TSSPDCL/Hyderabad.

..... 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, the Viduyut 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.42/2020-21/Rajendra Nagar Circle dt.23.07.2021.

CASE OF THE APPELLANTS

2. The appellants are residents of H.No. 1-8-92 to 102, Plot No. 14 and 15, Laxmi Narayana Colony, P.G.Road, Secunderabad in which a power supply connection No. DZ008327 is existing in the name of Smt. Angoori Devi Agarwal.

3. Respondent No.1, vide his letter No. SE / OP / RJN / SAO / JAO / HT / D.No.90/21 Dated 19.06.2021 (in short 'the impugned letter'), demanded the appellants to pay a sum of Rs 9,84,94,598/- which is the Current Consumption (in short 'C.C') bill for the Service Connection No. RJN 1890 (old S.C. No. MBN361) on or before 31.05.2021. It is also mentioned in the impugned letter that on failure to pay the said amount the residential Service Connection in the name of Smt. Angoori Devi Agarwal existing at her residence at Secunderabad shall be ordered for disconnection.

4. The power supply Service Connection to the domestic use stated above is quite different and it is nothing to do with the arrears of the S.C.No. RJN 1890 in the name of M/s. Sheetal Shipping and Metal Processors Ltd., (in short '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 No. DZ008327.

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 the parties present 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 consumer of S.C.No.DZ008327, who is a third-party.

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 No. DZ008327 is a link service to the industry which is the residential address of Sri. Radha Krishna Agarwal, who is connected 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. Therefore, appellant No.1 is not a third-party.

11. In the reply filed by the appellants to the written submissions of respondent No.1, it is reiterated that the consumer at Secunderabad in this case is a third-party to the industry.

ARGUMENTS

12. The learned authorised representative of the appellants has submitted that the respondents are not authorised to disconnect the Service Connection of Smt. Angoori Devi Agarwal 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 respondents have every right to disconnect the Service Connection involved in this case 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 in this case 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 industry fell in due to pay arrears of electricity charges to the respondents. The alleged link Service Connection at Secunderabad is not in the name of the appellants.

CRUX OF THE CASE

18. The claim of the respondents is that the industry fell due to pay arrears of the electricity charges of its High Tension (in short 'HT') Service Connection No.RJN 1890 and it was terminated. Since the appellants reside at the address where the alleged link service is existing, the respondents want to disconnect the Service Connection on the ground that it is a link service of the industry to recover the arrears of the industry. The appellants claim that the link service is in the name of a third-party to the industry and the link service 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 Smt. Angoori Devi Agarwal 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 a third-party intending to disconnect the Service Connection of a third-party.

PENDENCY OF CASES

20. 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 proceedings 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 appellants and the respondents herein with respect to the same matter. Therefore the present grievance is clearly maintainable.

21. 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 in

this case the owner of the proposed Service Connection is not connected to the industry. Therefore this judgement is not useful to the respondents.

22. 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.

23. Since the proposed party whose Service Connection is sought to be disconnected 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 proposed party 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 she is a third-party. Therefore, I hold that the impugned letter issued by respondent No.1 proposing to disconnect the Service Connection of Smt. Angoori Devi Agarwal 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 appellants and against the respondents.

POINT No. (iii)

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

RESULT

26. 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 DZ008327.

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. Radha Krishna Agarwal, s/o. S.N.Agarwal, H.No.1-8-92 to 102, Plot No.14&15, Lakshmi Narayana Colony, P.G.Road, Secunderabad - 500 003. Cell: 9866633081/7036205211.
2. Shyam Sundar Agarwal, s/o. S.N. Agarwal, aged about 61 years, r/o. H.No.1-8-92 to 102, Plot o. 14 & 15, Laxminarayana Colony, P.G.Road, Secunderabad - 500 003 Cell: 9866633081 / 7036205211.
3. The Superintending Engineer / Operation / Rajendra Nagar Circle/ TSSPDCL/Hyderabad.

4. The Superintending Engineer / Operation / Secunderabad Circle/
TSSPDCL/Hyderabad.
5. The Chief General Manager (Finance)/Corporate Office/
TSSPDCL/Hyderabad

Copy to

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

APPEAL NO. 15 OF 2021-22