



BEFORE THE VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA
First Floor 33/11 kV Substation, Beside Hyderabad Boat Club
Lumbini Park, Hyderabad - 500 063

PRESENT : SRI MOHAMMAD NIZAMUDDIN
VIDYUT OMBUDSMAN

MONDAY THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND TWENTY FOUR

Appeal No. 15 of 2024-25

Between

M/s. Krishnarjuna Para Boiled Rice Mill, represented by Sri M. Kishore,
Nehrunagar, Khammam Rural Mandal, Khammam District. Phone:
9246900567.

.....Appellant

AND

1. The Assistant Engineer/Operation/Rural/Khammam - 9440811546.
2. The Assistant Divisional Engineer/Operation/Edulapuram-9491061731
3. The Assistant Accounts Officer/ERO/R/Khammam-9440811571.
4. The Divisional Engineer/Operation/R/Khammam-7901093948.
5. Sri G.Venu Gopal (Director), Krishnarjuna Para Boiled Rice Mills Pvt. Ltd.,
H.No.4-2-160/2, Srinivasa Nagar, Near Ayyappa Swamy Temple,
Khammam - 507 003.
(Respondent No.5 is impleaded as per orders in C.M.P.No.4 of 2024-25
dated 06.07.2024).

..... Respondents

This Appeal is coming on before me for final hearing on 12.07.2024 in the presence of Sri Kalyan Rao - authorised representative of the appellant virtually, Sri B. Ramakrishna - ADE/OP/Edulapuram, Sri T. Sridhar - AAO/ERO/Rural/Khammam and Sri Ch. Nageshwar Rao - DE/OP/Rural Khammam, virtually and Sri G. Venu Gopal - respondent No.5, virtually and having stood over for consideration till this day, this Vidhyut Ombudsman passed the following:-

AWARD

This appeal is preferred aggrieved by the Award passed by the Consumer Grievances Redressal Forum - I, Warangal (in short 'the Forum') of Telangana State Northern Power Distribution Company Limited (in short 'TGNPDCL') in C.G.No 536/2023-24 /Khammam Circle, dated 30.4.2024 rejecting the complaint.

CASE OF THE APPELLANT BEFORE THE FORUM

2. The case of the appellant is that the Licensee-respondents have released the Service Connection No.150102605, with contracted load of 150 HP under Category -III (B) (in short the 'subject Service Connection'), to M/s.Krishnarjuna Para Boiled Rice Mill. The subject Service Connection was disconnected due to non-payment of arrears. On request, respondent Nos. 1 to 4 have reconnected the power supply to the appellant. But at that time only Rs 1,10,000/- was paid. Thus again the subject Service Connection was disconnected.

3. On 09.03.2023 a request was made to the Licensee for dismantling the subject Service Connection. Thereafter a notice was issued for payment of Rs.2,71,790/- which was settled for Rs.2,72,000/- on 17.03.2023. Rs 178/- towards dismantling charges was paid in June 2023. But again a notice was issued for payment of Rs 30,47,261/- on 22.2.2024. After the Sick Industry Revival Scheme was implemented, 1000 units power was utilised. The demand for payment of (24) months minimum charges is illegal. Therefore it

was prayed to exempt payment of minimum charges for (24) months, to consider the date of disconnection for determining the outstanding arrears and also to hand over the distribution transformer.

WRITTEN SUBMISSIONS OF THE RESPONDENTS BEFORE THE FORUM

4. In the written reply filed by respondent No. 3, it is submitted that Mr. Mulla Kishore, is not the owner of the appellant-firm. Respondent No. 5 has submitted the letter duly declaring the appellant-firm as sick industry. The date of disconnection is 26.04.2007. After the sick industry revival order has been issued the consumer has not paid any instalments. Hence again the subject Service Connection was disconnected on 15.12.2008. After payment of Rs 1,10,000/- only 1083 units were consumed and the same was billed. Hence notice was issued to pay arrears of Rs.30,47,261/-.

AWARD OF THE FORUM

5. After considering the material on record and after hearing both sides, the learned Forum has rejected the complaint under Clause 2.37 of Regulation 3 of 2015 of Hon'ble Telangana Electricity Regulatory Commission (in short 'the Regulation').

6. Aggrieved by the said Award passed by the learned Forum, the present appeal is preferred, contending among other things, that Mr.Mulla Kishore, has purchased the appellant-firm for Rs.6,52,76,000/- in an open auction. He paid the entire amount. Sale certificate dt. 22.07.2022 was issued and possession of the property was delivered to him. The claim of erstwhile

owner of the appellant in S.A.No 79/2022 was dismissed by the Debt Recovery Tribunal, Hyderabad on 19.12.2022.

GROUND OF APPEAL

7. The claim of the Licensee-Respondents No .1 to 4 for Rs 30,47,261/- is barred by limitation under Sec 56(2) of the Electricity Act (in short 'the Act'). More so the said amount was not shown continuously as recoverable. Hence it is prayed to set aside the impugned Award of the learned Forum and to remand the matter to the learned Forum for reconsidering the matter.

WRITTEN SUBMISSION OF RESPONDENTS

8. In the written reply filed by respondent No.1 before this Authority, it is, inter-alia, submitted that as per their available record Sri G. Venu Gopal, Director, gave a representation to them on 22.04.2008 stating that the appellant-company was not running properly and requesting them to declare it as a sick industry. As per their record Mr. Mulla Kishore, is not the owner of the appellant-firm. The Sick Industry Revival order was passed on 24.06.2008. Accordingly, a notice was given for payment of Rs.30,47,261/-. Therefore it is prayed to pass appropriate orders.

9. In the written reply filed by respondent No. 2 and 3 separately, they too mentioned the averments like respondent No.1 as stated above.

10. In the written reply filed by respondent No.5, it is, inter-alia, submitted that the then Andhra Pradesh State Finance Corporation and Mr. Mulla Kishore played fraud in the e-auction of the appellant-company. A complaint was lodged to the Central Bureau of Investigation. Hence it is prayed to dismiss the appeal.

ARGUMENTS

11. It is submitted by the authorised representative of the appellant that Mr. Mulla Kishore, has purchased the appellant firm in an open auction and he paid the bid amount, sale certificate was also issued in his favour and possession of the property was delivered to him; that the claim of respondent No.5 herein was dismissed by the Debt Recovery Tribunal-I at Hyderabad in S.A. No.79/2022 on 09.12.2022 and the appeal filed against the said order was also dismissed; that respondent No.1 to 4 have not shown the alleged arrears continuously and the claim of Rs.30,47,261/- is barred by limitation under Sec.56(2) of the Act and hence he prayed to set aside the demand of Rs.30,47,261/- made by respondent No. 1 to 4 in this regard.

12. Respondents No.1 to 4 have submitted that their claim is within the period of limitation. Therefore it is prayed to reject the appeal.

13. Respondent No.5 has submitted that Mr. Mulla Kishore is nothing to do with the appellant-firm and it is they who are owners of the said company and hence it is prayed to reject the appeal.

POINTS

14. The points that arise for consideration are:-

- i) Whether the claim of Rs.30,47,261/- by respondents 1 to 4 towards arrears from the appellant-firm is barred by limitation under Sec.56(2) of the Act?
- ii) Whether the impugned Award passed by the learned Forum is liable to be set aside ? and
- iii) To what relief?

POINT No. (i) and (ii)

DISPUTE AS REGARDS THE OWNERSHIP OF THE APPELLANT COMPANY

15. The present appeal is filed by Mr. Mulla Kishore, on the ground that he purchased the appellant company in an open auction, he paid the amount, sale certificate was issued in his favour and possession of the said property was delivered to him. He also claimed that the claim of respondent No.5 regarding ownership of the subject firm was dismissed by the Debt Recovery Tribunal-I, in S.A. No.78/2019 on 19.12.2022 and appeal filed thereafter in Appl.Dy.No.14 of 2023 was also dismissed by the Debts Recovery Appellate Tribunal at Kolkata on 20.07.2023. On the other hand, respondent No.5 herein has submitted that in fact, they are the owners and possessors of the subject appellant-firm.

16. The above factors go to show that both Mr. Mulla Kishore on one hand and respondent No.5 on the other hand claiming ownership over the appellant-firm. But this Authority has no jurisdiction or power to decide the

ownership of any property. More-over when the appellant approached the learned Forum the dispute in respect of the ownership of the firm was not there. This Authority in the present appeal therefore will decide as to the claim of respondents 1 to 4 towards arrears on the subject Service Connection is barred by limitation or not.

ADMITTED FACTS

17. It is an admitted fact that respondent Nos. 1 to 4 have released the subject Service Connection in favour of the appellant company on 25.02.2002. It is also an admitted fact that at present the appellant company is not functioning and there is no power supply to it.

SETTLEMENT BY MUTUAL AGREEMENT

18. Both the parties have appeared before this Authority virtually. 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

19. The present appeal was filed on 18.06.2024. This appeal is being disposed of within the period of (60) days as required.

CRUX OF THE MATTER

20. According to Mr. Mulla Kishore, who is representing the appellant-firm, he made a representation on 27.03.2023 to the Licensee for

issuing clearance certificate for dismantling and shifting of the premises of the subject Service Connection. Thereafter respondent Nos. 1 to 3 have issued a Memo DEE/OP/KMM/AE/Comml./D.No.563/23 dt.23.08.2023 stating that there was no back billing/theft cases/mal-practice cases for the subject Service Connection and an amount of Rs.178/- was collected from him towards dismantling charges. However, according to him, subsequently respondent No.3 has served a copy of letter dt.20.02.2024 addressed to the appellant company demanding to pay Rs.30,47,261/- towards permanent dismantlement of the subject Service Connection. Basing on these factors, the appellant claimed that the said claim is barred by limitation.

21. At this stage it is necessary to refer to the facts in this case in chronological order. As already stated, the subject Service Connection was released in favour of the appellant company on 25.02.2002. According to the written reply filed respondent No.3 before the learned Forum, the date of disconnection of the Service Connection is on 26.04.2007. The material on record goes to show that the appellant company became sick and the then Assistant Accounts Officer letter D.No.888/08 dt.15.12.2008, the consumer has not paid any of the instalments agreed under Sick Industrial Revival scheme. Thereafter to recover the dues 'A' Form notice was issued to the appellant-company for recovering Rs.30,47,261/-. At this stage it is necessary to refer to the letter dt.20.02.2024 addressed by respondent No.3 to the

appellant company, with a calculation sheet enclosed herewith to the said letter which are as under:-

FROM	TO
Asst. Accounts Officer, ERO/Rural, KHAMMAM.	M/s. Krishnarjuna P Boiled Rice Mill, Sc. No. 15 01 02605, Edulapuram.

Lr.No.AAO/ERO/R/KMM/JAO/Sr.Asst.(HV)/D.No.596/23, Dt.26.02.2024
Sir,

Sub : ERO-Rural-Kmm - Dismantlement of Sc. No. 15 01 02605 -
Proposals received - Arrangement of payment - Requested
- Reg.

Ref : 1) Consumer representation on Dt.27.03.2023.
2) Memo.No. CGM(Coml.,)/GM/DE/ADE/AE(C)/D.No.1844/23-24,
Dt.08-02-2024.

In the reference 2nd cited, the SC No. 15 01 02605, M/s. Krishnarjuna Para boiled Rice Mill, Edulapuram Section, has requested for dismantlement of service wherein the same was calculated and an amount of Rs.30,47,261/- (Rupees Thirty Lakhs Forty Seven Thousand Two Hundred and Sixty One only) was arrived as on 29.02.2024 has to be paid.

Hence, it is requested to pay the said amount at an early for permanent dismantlement of service.

Yours faithfully,

Asst. Accounts Officer,
ERO/ Rural/Khammam.

Handwritten note: Forward to copy on dated 28/2/24 (15 marks)

Copy to:
The Asst. Divisional Engineer/Op/Edulapuram is requested to serve the notice to the consumer and obtain dated acknowledgement and forward the same to Asst. Accounts Officer/ERO/Rural/ Khammam.

CALICULATION SHEET OF KRISHNAARJUNA PARABOILED RICE MILL
SC.NO 15 01 02605, CAT-3B, LD 150HP TOWARDS PERMANENT DISMANTLE
VIDE MEMO.NO.CGM/COML.,)GM/DE/ADE/AE(C)/D.No.1844/23-24, Dt.08-02-
2024

Date of Release of Supply 25-02-2002		
Arrears to the end of 30.09.2008		230719.00
FR on the Date of Inspection (As per Ledger)	778873	
Final Reading As per Test Report	779956	
Difference Units	1083	
ADD: Difference Units Amount		4126.23
consumer payable to the end of 09/2008		234845.23
LESS: S.D. Available		192330.00
Net Consumer payable as on 30.09.2008		42515.23
ADD: MM for 2 years from 10/2008 to 09/2010		846000.00
Total Arrears 09/2010		888515.23
ADD: LP amount from 10/2010 to 03/2023 150 Months		1999159.27
Total Arrears to be collected		2887674.50
LESS: Consumer paid on 17.03.2023		272000.00
Consumer payable as on 03/2023		2615674.50
ADD: LP amount from 04/2023 to 02/2024 11 Months		431586.29
Net Consumer payable as on 02/2024		3047260.79
(or) say		3047261.00

22. The above calculation sheet indicates the date of power supply to the subject Service Connection is 25.02.2002 for which there is no dispute. As

regards the arrears upto 30.09.2008 it is shown as 2,30,719/-. Thereafter different amounts were added and the amount payable by the consumer up to September 2008 is shown as Rs.2,34,845.23 ps. Security Deposit was deducted from the said amount by keeping balance arrears of Rs.42,515.23 ps. Thereafter two years minimum charges were claimed from 10/2008 to 09/2010 amounting to Rs.8,46,000/-. The total amount upto September 2010 is shown as Rs.8,88,515.23 ps. Thereafter late payment amount/surcharge was added from October 2010 to March 2023 which is Rs.19,99,159.27 ps. This is the amount payable by the end of March 2023 by the consumer. According to his statement, the consumer paid Rs.2,72,000/- on 17.03.2023 and it was deducted. The amount payable by the consumer as on 03/2023 is Rs.26,15,674.50/-. Finally the LP amount was shown from April 2023 to February 2024 which is Rs.4,31,586.29 ps. The net amount payable by the consumer as in February 2024 is Rs.30,47,261.79 ps rounded off to Rs.30,47,261/-. Thus this calculation indicates that even from September 2008 upto 17.03.2023 for more than (14) years there was no payment made by the consumer. At this stage it is relevant to refer Sec.56 of the Act which reads as under:-

Section 56. (Disconnection of supply in default of payment): -- (1) Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, after giving not less than fifteen clear days' notice in writing, to such person and without prejudice to his rights to recover such charge or other sum

by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer:

Provided that the supply of electricity shall not be cut off if such person deposits, under protest:-

(a) an amount equal to the sum claimed from him, or

(b) the electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months,

whichever is less, pending disposal of any dispute between him and the licensee.

(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.

A perusal of Sub-section 1 of Section 56 of the Act confers a statutory right to the licensee to disconnect the supply of electricity if the consumer fails to pay the electricity dues. But this statutory right is subject to the period of limitation of two years provided by Sub-section 2 of Sec. 56 of the Act. Further the period of limitation of two years commences from the date on which the electricity charges first became due under Sub-section 2 of Sec. 56 of the Act. This provision restricts the right of the company to disconnect electricity supply

due to non-payment of dues by the consumer unless that amount is shown continuously as arrears recoverable.

23. The sum and substance of Sec.56(2) is that if the dues are pending they shall be shown continuously in the bills or else the claim of the department gets barred. In the present case, there is no iota of evidence to show that respondents 1 to 4 have shown the arrears due continuously in the bills. Even no bill was raised during the period of almost (14) years. That apart the alleged arrears could not be recovered under the Revenue Recovery Act. At the cost of repetition even at least from 2008 upto March 2023, no arrears were shown as due continuously and no bills were raised. Unless a bill is raised by the licensee the question of recovery does not arise. Therefore the claim of respondent Nos. 1 to 4 for Rs. 30,47,261/- as on February 2024 is barred by limitation under Sec.56(2) of the Act.

24. The learned Forum has rejected the complaint basing on Clause 2.37(a) of the Regulation, on the ground that S.A.No.78/2019 is pending before the Hon'ble Debts recovery Tribunal at Hyderabad. Admittedly, the said S.A is not between the appellant and the respondents 1 to 4 herein to fulfil the said Clause of the Regulation. Further, the said S.A. was disposed of as long as on 19.12.2022. Therefore the rejection of the complaint by the learned Forum on the said ground is not correct. Accordingly, I hold that the claim of Rs.30,47,261/- by respondents 1 to 4 from the appellant-firm is barred by

limitation under Sec.56(2) of the Act and the Award of the learned Forum is liable to be set aside. These points are accordingly decided in favour of the appellant and against respondents 1 to 4.

POINT No. (iii)

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

RESULT

26. In the result, the appeal is allowed by setting aside the Award of the learned Forum. The claim of respondent Nos. 1 to 4 for Rs.30,47,261/- towards arrears on subject Service Connection is set aside.

In view of the rival claims about the ownership of the appellant-firm, this Authority is not touching the ownership issue as it has no jurisdiction to do so.

A copy of this Award is made available at <https://vidyutombudsman-tserc.gov.in>.

Typed to my dictation by Office Executive cum Computer Operator, corrected and pronounced by me on the 15th day of July 2024.

**Sd/-
Vidyut Ombudsman**

1. M/s. Krishnarjuna Para Boiled Rice Mill, represented by Sri M. Kishore Nehrunagar, Khammam Rural Mandal, Khammam District. Phone: 9246900567.
2. The Assistant Engineer/Operation/Rural/Khammam - 9440811546.
3. The Assistant Divisional Engineer/Operation/Edulapuram-9491061731.
4. The Assistant Accounts Officer/ERO/R/Khammam-9440811571.
5. The Divisional Engineer/Operation/R/Khammam-7901093948.
6. Sri G.Venu Gopal (Director), Krishnarjuna Para Boiled Rice Mills Pvt. Ltd.,H.No.4-2-160/2, Srinivasa Nagar, Near Ayyappa Swamy Temple, Khammam - 507 003.

Copy to

7. The Chairperson, Consumer Grievances Redressal Forum of TSNPDCL- H.No.2-5-28,Opp: Head Post Office, Nakkalagutta, Hanamkonda, Warangal District, Pin: 506 001

