



BEFORE THE VIDUYUT 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
VIDUYUT OMBUDSMAN**

FRIDAY THE THIRTEENTH DAY OF JANUARY
TWO THOUSAND AND TWENTY THREE

Appeal No. 16 of 2022-23

Between

Floatilla Owners Welfare Association, Neknampur, Rajendra Nagar Mandal,
Alkapur Township, Ranga Reddy District - 500 089, represented by
Sri Devisetty Sridhar, Secretary of the Association, s/o. Devisetty Rama Mohan
Rao, Cell: 9885533317.

.....Appellant

AND

1. The Assistant Engineer / Operation/ Narsingi / TSSPDCL / Rangareddy District.
2. The Assistant Divisional Engineer /Operation/Ibrahimbagh / TSSPDCL / Rangareddy District.
3. The Assistant Accounts Officer /ERO/Ibrahimbagh/TSSPDCL/Rangareddy District.
4. The Divisional Engineer /Operation/Ibrahimbagh/TSSPDCL/Rangareddy District.
5. The Superintending Engineer/Operation/Cyber City Circle/TSSPDCL Rangareddy District.

..... Respondents

This appeal is coming on before me for final hearing on 08.12.2022 in the presence of Sri Devisetty Sridhar - representative of the appellant and Sri T.Sandeep Reddy - AE/OP/Narsingi, Sri Ramesh Medi - ADE/OP/Ibrahimbagh, Sri P.Raju - AAO/ERO/Ibrahimbagh for the respondents and having stood over for consideration till this day, this Viduyut Ombudsman passed the following:-

AWARD

This appeal is preferred aggrieved by the Award passed by the Consumer Grievances Redressal Forum - Greater Hyderabad Area (in short 'the Forum') of Telangana State Southern Power Distribution Company Limited (in short 'TSSPDCL') in C.G.No.89/2022-23, CYBERCITY CIRCLE dt.29.07.2022.

CASE OF THE APPELLANT BEFORE THE FORUM

2. The case of the appellant is that respondent No.2, has served a notice vide ADE/OP/Ibrahimbagh/D.No 073, Dt: 12.04.2022 on the appellant-association of the appellant mentioning the change in the category of meter to commercial and revising tariff and calculations and demanding to pay Rs 12,25,795/-.The appellant has preferred the appeal against the said notice before respondent No.4 and 5, they did not dispose of the appeals. Respondent No.4, was insisting to pay the demanded amount. Earlier the respondents never pointed out any mistake in respect of the category for the past seven years in respect of running the Sewerage Treatment Plant (in short 'STP') which is for treating residential sewerage. It is wrong to categorise the usage under commercial purpose as they have been disposing of the sewerage of the residential apartment in accordance with the law. Therefore it is prayed to give relief to the appellant by quashing the impugned notice.

REPLY OF THE RESPONDENTS BEFORE THE FORUM

3. In the written reply submitted by respondent No. 5, it is stated that on 21.03.2022 the DPE/team/ Vikarabad circle inspected the Service Connection No. 3432 01668, running in the name of M/s. Elegant Infratech Pvt. Ltd in Narsingi section and they observed that the service is being billed under LT-I(C) category under domestic common purpose on KWH billing basis. The service is being used exclusively for running the STP. As per Clause 1.10 (I) of Hon'ble Telangana State Electricity Regulatory Commission (in short 'TSERC') the activity of STP comes under LT category –III applicable to Government Department or Cooperative societies. The present plant is being run by a private agency. Hence back billing was done in LT category-II.

AWARD OF THE FORUM

4. After considering the material on record and after hearing both sides, the learned Forum has allowed the complaint in part by directing the respondent to collect the back billing amount only for three years prior to 21.03.2022 and disposed of the complaint accordingly.

5. Aggrieved by the Award passed by the learned Forum, the present appeal is preferred, contending among other things, that the appellant-association collect monthly maintenance charges from its residences and spend the same on regular maintenance including STP operations and maintenance.

GROUNDS OF THE APPEAL

6. In the grounds of appeal, it is, inter-alia, stated that the learned Forum has not considered the material on record properly. The character of Cooperative Societies in this context is applicable to the residential welfare association whose mandate and functions are of Cooperative Societies only.

WRITTEN SUBMISSION OF THE RESPONDENTS

7. In the written submissions of respondent No. 2, it is stated that the subject STP activity comes under 'Non Domestic' activity. Therefore it is to be billed under LT category II.

8. Heard both sides.

POINTS

9. The points that arise for consideration are:-

- i) Whether the appellant is entitled for setting aside the impugned notice to the extent of the entire amount?
- ii) Whether the impugned Award of the learned Forum is liable to be set aside? and
- ii) To what relief?

POINT No. (i) and (ii)

ADMITTED FACTS

10. It is an admitted fact that the appellant association has been using Service Connection No. 3432 01668 since August 2015. The usage is for STP.

SETTLEMENT BY MUTUAL AGREEMENT

11. Both the parties have appeared before this Authority on different dates. 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

12. 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.

CRUX OF THE MATTER

13. The appellant-M/s. Floatilla Owners Welfare Association (FOWA), owns a Service Connection No. 3432 01668 since 2015, utilising the supply for STP, to process the sewerage before connecting it to the drainage line and reused for toilet flushing and gardening purpose. The billing tariff of the Service Connection since the inception from August 2015 was under Domestic Category. Presently the Service Connection is in the name of M/s. Elegant Infratech Private Limited, who was the builder, handed over the apartment to M/s. FOWA. On 21.03.2022, an inspection was conducted by DE/DPE and it was concluded that the beneficiary (FOWA) is utilising supply for STP for 282 flats apartment under domestic category, instead of non

Domestic category. Subsequently a Provisional Assessment Order was issued vide Lr. No 073, dt:12.04.2022, towards back billing assessed on the differential tariffs rates for the period from 21.08.2015 to 21.03.22, for an amount of Rs.12,75,795/-.The appellant preferred the appeal before the learned Forum in C.G.No.89/2022-23. The Forum allowed the appeal in part passing the Award by reducing the period of assessment for only (3) years prior to the date of inspection i.e. on 21.03.2022. Notwithstanding the above Orders, the appellant preferred the present appeal before this Authority to withdraw the total amount of back billing.

14. Mainly the appellant relied on the following factors towards its claim of withdrawal of back billing amount:-

a. The Sewerage Treatment Plant (STP) is based on the Government Instructions (MAUD) - that they are fulfilling an important objective of the Government in protecting the environment and saving water which is a precious commodity and not for making any profit or for commercial purpose and also not run by a private company. That they are a residential welfare association, M/s. Elegant Infratech is a builder and it is not correct to say that the operations of STP are on lease to M/s. Elegant infra.

15. The Tariff rates are governed by Tariff Orders approved by the Hon'ble Commission from time to time. The relevant tariffs applicable for Sewerage Treatment Plant as per the Tariff Order FY 2022-23 is reproduced here under:-

The Clause 9.4 LT-III Industry read with Sub-Clause 9.4.2 :-
Water Works & Sewerage Pumping Stations operated by the Government Departments or Co-operative Societies and pump sets of Railways, pumping of water by industries as subsidiary

function and sewerage pumping stations operated by local bodies and Drinking Water filtering plants using Reverse Osmosis (R.O.) process/any other filtering process.

As per the above given Clause, the basic necessity for a consumer having STP to be considered under LT Category-III is that it is to be a Government agency or a Co-operative society. If a consumer is not falling under the above said definition, the only condition for getting concessional tariff is through invoking Sec.108 of the Electricity Act 2003, by the Government of Telangana.

16. The next claim of the Flotilla Owners Welfare Association is that it is like a cooperative housing society. The character of cooperative societies in this context is applicable to the residential welfare societies whose sole mandate and functions are of cooperative societies only. That they are working for the welfare of its constituent residents and in the interest of the society, having elected body members.

17. M/s. FOWA(appellant) claimed that their residential welfare society falls under the ambit of cooperative societies. Hence, they are liable for concessional tariffs as given to the STP plants of cooperative societies. Before adjudicating the dispute, it is relevant to understand what cooperative society is. The Telangana Cooperative Society Act 1964 gives definition of a cooperative society under chapter-I, read with Clause - 2(p) as follows:-

“society” means a co-operative society registered / deemed to have been registered under this Act / Societies registered under 14 Telangana Mutually Aided Cooperative Societies Act and received land from Government either free of cost or at subsidised price or at market rate and thus deemed to have been registered under this Act.

The above Clause clearly mentions that any society falls under cooperative society registered in the event of getting the land from the Government either free of cost or at subsidised price or at market rate. This shall be deemed to have been registered under the Telangana Cooperative Society Act.

18. The record shows that M/s. Flotilla Owners Welfare Association has not produced any such documentary evidence, as such their claim does not fall under the ambit of cooperative societies which is a mandatory provision for entitlement of concessionary tariff. Definitely as per the Tariff Orders the sewerage treatment plant cannot be considered as a domestic service which was used to be billed previously. The tariff rates are applicable based on the usage of power supply. The sewerage treatment plant falls under the Category of LT-III subject to the conditions stipulated under the Clause 9.4 read with Sub-clause 9.42 of the Tariff Order. Those consumers who do not fit under the definitions prescribed in the Tariff Orders for the various categories falls under the LT Category -II : Non-Domestic/Commercial, the relevant Clause of the Tariff Order is reproduced here-under:-

9.3 LT-II: Non-Domestic/Commercial

LT-II(A) and LT-II(B)

Applicability

- a. A consumer who undertakes Non-Domestic activity.
- b. A consumer who undertakes commercial activity.
- c. **A consumer who does not fall in any other LT Category i.e. LT-I, LT-III to LT-IX categories.**

As per the above given Clause, the Service Connection No. 3432 01668 utilising supply for the Sewerage Treatment Plant falls under Non-Domestic Category, since the said connection does not fall under the categories such as LT-I, LT-III to LT-IX. Hence, the back billing towards LT-I to LT-II Category holds good. Accordingly I hold that the impugned notice is not liable to be set aside to the extent of the entire amount and the Award of the learned Forum is not liable to be set aside. These points are accordingly decided against the appellant and in favour of the respondents. This authority is not touching the benefit which was already given to the appellant.

POINT No. (iii)

19. In view of the findings on point No. (i) and to (ii), the appeal is liable to be rejected.

RESULT


20. In the result, the appeal is rejected confirming the Award passed by the learned Forum. The appellant is entitled for the benefit already given by the learned Forum. The appellant is granted (12) monthly equal instalments, as per the Regulation No. 7 of 2013 of the Hon'ble Telangana State Electricity

Regulatory Commission, to pay the balance amount commencing from the month of February 2023, failure to pay any single instalment, would make the entire balance due recoverable in lumpsum.

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 this the 13th day of January 2023.

Sd/-
Vidyut Ombudsman

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1. Floatilla Owners Welfare Association, Neknampur, Rajendra Nagar Mandal, Alkapur Township, Ranga Reddy District - 500 089, represented by Sri Devisetty Sridhar, Secretary of the Association, s/o. Devisetty Rama Mohan Rao, Cell: 9885533317.
 2. The Assistant Engineer / Operation/ Narsingi / TSSPDCL / Rangareddy District.
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 4. The Assistant Accounts Officer /ERO/Ibrahimbagh/TSSPDCL/Rangareddy District.
 5. The Divisional Engineer /Operation/Ibrahimbagh/TSSPDCL/Rangareddy District.
 6. The Superintending Engineer/Operation/Cyber City Circle TSSPDCL Rangareddy District.
- Copy to**
7. The Chairperson, Consumer Grievances Redressal Forum of TSSPDCL- Greater Hyderabad Area, Door No.8-3-167/E/1, Central Power Training Institute (CPTI) Premises, TSSPDCL, GTS Colony, Vengal Rao Nagar, Erragadda, Hyderabad - 45.