



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

THURSDAY THE TENTH DAY OF AUGUST
TWO THOUSAND AND TWENTY THREE

Appeal No. 23 of 2023-24

Between

1. Col. Rajneesh Nagpaul (Retd), H.No. 5-8-34/A/38, Golf Pride Homes, Swaran Andhra, Phase-II, Yapral, Secunderabad - 500 087. Cell: 7893663447.
2. Col. Y.S.Rayudu, authorised representative of Golf Pride Homes Residents, Mobile No. 9908114888.

.....Appellants

AND

1. The Assistant Engineer / Operation / Yapral / TSSPDCL / Medchal-Malkajiri District.
2. The Assistant Divisional Engineer / Operation / Sainikpuri / TSSPDCL / Medchal-Malkajiri District.
3. The Assistant Accounts Officer / ERO / Sainikpuri / TSSPDCL / Medchal-Malkajiri District..
4. The Divisional Engineer / Operation / Sainikpuri / TSSPDCL / Medchal-Malkajiri District..
5. The Superintending Engineer / Operation / Habsiguda / TSSPDCL / Medchal-Malkajiri District..
6. The Chief General Manager (Commercial)/TSSPDCL/Corporate Office/Hyderabad.
7. Lt.Col. R. Ravi Shankar (Retd.), Plot No.51, Golf Pride Homes, Swaran Andhra, Phase-2, Yapral,Secunderabad, Cell: 9440834795.

..... Respondents

This appeal is coming on before me for final hearing on 08.08.2023 in the presence of appellant No.1 in person, Sri B. Rama Naik - AE/OP/Yapral, Sri P. Muthaiah - ADE/OP/Sainikpuri, Smt.M. Kiranmayee - AAO/ERO/Sainikpuri, Sri B. Franklin - DE/DPE/CT Meters, Sri P.V. Ramesh-SE/DPE for respondent No. 1 to 6 and Sri Pradeep Kumar - advocate for respondent No.7 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 - (Greater Hyderabad Area), Hyderabad (in short 'the Forum') of Telangana State Southern Power Distribution Company Limited (in short 'TSSPDCL') in C.G.No 368/2022-23, Habsiguda Circle dt: 30.06.2023 rejecting the complaint.

CASE OF THE APPELLANT BEFORE THE FORUM

2. The case of the appellants is that there are (45) residents who have constructed their houses from 2010 onwards in the colony called Golf Pride Homes, Swarn Andhra, Phase-II, Yapral (in short "GPHSAP"). Appellant No.1 claimed as Additional Secretary of GPHSAP. It is a Hyderabad Urban Development Authority approved open plot layout of 2003. The developers have provided overhead water tanks, sump and borewell to provide the water to every house by laying pipe line along-with two electricity Service Connection Nos. 13041902355 (Category-III Industry) (in short 'the subject Service Connection') in the name of M/s. Swarnandhra Housing Project and another

Service Connection in the name of one Mr. T.Srinu with Service Connection No. 23060215.

3. Respondent No.2 has issued a back billing notice on 25.06.2022 addressed to M/s. Swarnandra Housing Project, Phase-II, Yapral demanding to pay Rs. 5,29,366/- from 2007 on their borewell pumping and water supply to the residents on the subject Service Connection on the ground that initially the subject Service Connection was released under LT-III - Category (Industry) wrongly and the correct Category is Category-II.

4. Out of the demanded amount of Rs. 5,29,366/-, they have deposited Rs. 2,65,000/-. Thereafter they approached respondent No.5 to review the demand issued by respondent No.2, but they were not successful. It was accordingly prayed to direct for refund of Rs.2,65,000/- paid by them.

WRITTEN SUBMISSIONS OF THE RESPONDENTS

5. In the written reply submitted by respondent No.2, before the learned Forum it is stated that on 31.05.2022 at about 3.00 PM one Mr. B. Franklin, DE/DPE/Habsiguda has inspected the subject housing colony and booked a back billing case for Rs. 5,29,366/- in view of usage of the Service Connection. Respondent No.5 also stated similar to that of respondent No.2.

6. A rejoinder was submitted on 23.04.2023 stating that respondent No.7 wanted to join the Society of the appellants and he has assured to pay the due amount. Respondent No. 7 was accordingly elected as the Secretary but he did not clear the dues. Therefore a suit was filed for recovery of Society dues before the Civil Court, Malkajgiri.

7. The Hon'ble High Court in I.A.No 1/2020 in W.P.No 20268/2020 allowed the rival party (appellant No.1 and 2 herein and others) to make payments of essential services including the electricity bills. Other cases are also filed by different persons.

8. Respondent No.7 has filed his written reply by different modes, contending among other things, that the electricity meters were being operated by the appellants herein without any authorisation by any Member or General Body of M/s. Golf Pride Homes Welfare Society. Several cases are pending in various Courts. According to him the claim of Rs.5,29,366/- is correct. It was accordingly prayed to reject the complaint.

AWARD OF THE FORUM

9. 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 the Hon'ble Telangana State Electricity Regulatory Commission (in short 'the Regulation') stating that various cases are pending

before various Forums.

10. Aggrieved by the Award passed by the learned Forum, the present appeal is preferred, contending among other things, that various cases are pending before various Forums; that they are not liable to pay the amount of Rs.5,29,366/-; that the learned Forum has not properly decided the case and hence it is prayed to do justice.

11. In the written reply submitted by respondent No.2, it is stated that the subject Service Connection is being used for lifting water for plantation in the park and house-hold purposes.

12. In the written reply (counter) filed by respondent No.7, it is, inter-alia, submitted that he is the Secretary of Gold Pride Homes Welfare Association and that the appellants have no locus standi to file any complaint or to represent Gold Pride Homes Welfare Society. The appellants are not consumers as per Sec.2(15) of the Electricity Act (in short 'the Act') etc., It is accordingly prayed to dismiss the appeal and to direct the authorities concerned to initiate appropriate proceedings against the miscreants.

ARGUMENTS

13. Heard both sides. Perused the e-mail sent by appellant No.2.

POINTS

14. The points that arise for consideration are:-

- i) Whether the demand notice issued by respondent No. 2 to pay Rs.5,29,366/- is liable to be set aside?
- ii) Whether the appellants have locus standi to file the complaint and the present appeal?
- iii) Whether the impugned Award passed by the learned Forum is liable to be set aside? and
- iv) To what relief?

POINT No. (i) to (iii)

ADMITTED FACTS

15. It is an admitted fact that earlier respondent Nos. 1 to 6 have released the subject Service Connection in the name of Swarn Andhra Housing Projects, Phase-II at Yapral. One more Service Connection was released in the name of one Mr.Srinu. The subject Service Connection was initially released in Category-III.

SETTLEMENT BY MUTUAL AGREEMENT

16. Both the parties have appeared before this Authority on 08.08.2023. 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

17. The present appeal was filed on 27.07.2023. This appeal is being disposed of within the period of (60) days as required.

CRUX OF THE MATTER

18. The appellants as well as respondent No. 7 have given particulars of cases pending between them in different Forums and also before the Hon'ble High Court. The said cases are as under:-

Sl. No.	Case No.	Petitioners	Respondents	Court	Relief sought	Status
1.	WP No.10935/2021 SR No. WPSR24100/2021 CNR No. HBHC01031380 2021 Connected case No. WP.0009834/2021	Mr. Sainath Madhu, Plot No. E20&21, Golf Pride Homes	Golf Pride Homes Welfare Society	Hon'ble High Court of Telangana	In respect of GPHWS Society registration	Pending
2.	S.O.P.No. 6/2021	Brig Jyoti, TES Prasanna, Maj Rayudu, Col Rajneesh Nagpal, Mr. Jayapal Reddy & others	Mr. Pradeep, Lt.Col Ravi Shankar, Mr. Manoj P, Registrar of Societies & others	PDJ-cum-Family Court, Malkajgiri	Legality of office bearers	-do-

3.	O.S.No. /206/2021	1. Smt. R. Lakshmi Prasanna, Plot owner 99, 2. Mr. Sanjay Surander, Plot Owner 48,49,50	1. M/s. Swarnandhra Housing Project, rep., by Managing Partners K. Anil Kumar and P.Karunakar Reddy 2. Kancharala Varun 3. K. Pameela Rani 4. Brig.AK.Jyoti 5. Yasam Subbarayudu (appellant No.2) 6. Jaipal Reddy 7. Rajneesh Nagpal (appellant No.1) 8. Sub-Registrar Vallabh Nagar	Pri/Junior Civil Court, Malkajgiri	Suit to prevent illegal occupation of amenities area by private servants	“
4.	W.P. No.20268/2020 SR No. WPSR 26036/2020 CNR No.HBHC01033 1192020	M/s. Golf Pride Homes Welfare Society a registered Society under Societies Registration Act vide Regd No.2309/2004 represented by its Secretary Sri R. Ravishankar (respondent No.7 herein)	1. The Union of India represented by its Secretary Ministry of Finances Jeevan Deep Building Parliament Street New Delhi 110001 2. The Branch Manager State Bank of India Yapral Branch Secunderabad Telangana State 3. The Regional Manager State Bank of India Patny Centre Hyderabad AO	Hon'ble High Court of Telangana	Questioning of GPHWS SBI Account	-do-

			Secunderabad 4. Brig. AK Jyoti 5. MR TES Prasanna 6.Mr Yasam Subbarayudu (<u>appellant No.2</u>) 7.Mr. Jayapal Reddy 8.Mr. Rajneesh Nagpal (<u>appellant No.1</u>)			
5.	CRLP No. 7669/2021 SR No.CRLPSR 8721/2021 CNR No.HBC010408 442021	1. Brig. A.K.Jyoti 2. Mr. Prasanna Kumar 3. K. Radha Krishnan 4. Rajneesh Nagpal (<u>appellant No.1 herein</u>)	1. Col. R. Ravi Shankar (<u>Respondent No.7 herein</u>) 2. The State of Telangana rep. By its Public Prosecutor High Court of Telangana Hyderabad	Hon'ble High Court of Telangana	To Quash FIR	-do-
6.	O.S. No. 499/2020	Mr.Muthyalu, r/o.H.No.7-107, JJ Nagar Colony, Sy No.227, Yaprall	Golf Pride Homes Welfare Society	1st Add.Junior Civil Judge cum XVIII Addl Metropolitan Magistrate at Malkajgiri	In respect of illegal Barricading of Indian Citizen	Judgement pronounced. Permanent injunction granted
7.	CC No.856/2023 underSec.420, 403, 406 r/w 34	Golf pride Homes Welfare Society represented by Lt.Col Ravi Shankar (<u>respondent No.7 herein</u>)	AK Jyoti, TES Prasanna, K. Radha Krishnan, Rajneesh Nagpal (<u>appellant No.1 herein</u>)	III Addl Junior Civil Judge cum X Addl. Metropolitan Magistrate Athivelli, Medchal	Offence of criminal breach of trust	Summonses stage

APPLICATION OF CLAUSE 2.37 OF REGULATION 3 OF 2015

19. The Table of cases mentioned above goes to show that different cases are pending before various Forums. The learned Forum has rejected the complaint basing on Clause 2.37 (a) of the Regulation. In order to apply the said Clause the proceedings pending before any Court or Tribunal etc., shall be in respect of the same matter or issue between the same complainant and the Licensee. The presence of Licensee in the said case is essential. No such case is pending where the Licensee-respondent Nos.1 to 6 are arrayed as one party and the complainant/appellants in the instant case were arrayed as another party. As already stated, different cases were filed by different persons before different Forums are for different reliefs. Further as per Clause 2.32 of the Regulation, the Forum has jurisdiction to decide the following electricity disputes of the consumers :-

- a) Non-Supply
- b) Re-Connection of supply after receipt of dues by Licensee;
- c) Disconnection of supply
- d) Meter-related issues.
- e) Billing- related issues.
- f) Standards of Performance related issues;
- g) Change of Category or change of name or address of consumer
- h) Release of new Service Connection; or
- i) Other issues

The present dispute is in respect of back billing covered under Clause 2.32(e).

The learned Forum has exclusive jurisdiction to decide the present grievance.

That being the case, since no case is pending between the same parties touching the same issue of back billing, the rejection of the complaint by the

learned Forum citing some other case is not correct.

LOCUS STANDI OF THE APPELLANTS

20. It is argued on behalf of respondent No.7 that the appellants are not the consumers as defined under Sec. 2(15) of the Act or any Clause of the Regulation, therefore, they have no locus standi to file any complaint before the learned Forum or appeal before this Authority. It is true that only consumers can file the complaint before the Forum etc., Consumer is defined under Sec. 2(15) of the Act and also complaint is defined as per Clause 1.5(c) of the Regulation. In the instant case there are sufficient number of disputes pending between the persons where the subject Service Connection is installed. Different reliefs were also claimed in those cases. This Authority cannot decide as to who is the proper party at this stage. Appellants and respondent No. 7 are also parties in some of the proceedings. However as seen from the records when 2nd respondent issued (7) days' impugned notice, appellant No.2 replied to the said notice initially. Again when respondent No.2 issued another notice on 26.07.2022 appellant No.2 responded to the said notice and sought time for (30) days. Thereafter appellant No.2 approached respondent No.5 to waive the subject demanded amount. Respondent No.5 thereafter accepted for personal hearing. Finally respondent No.5 passed Final Assessment Order in the appeal on 22.12.2022 confirming the due amount as Rs.5,29,366/-. Out of the said amount a sum of Rs.2,65,000/- was paid on two

occasions.

21. Electricity is a basic necessity and is an integral part of the right to life as enshrined under Article 21 of Constitution of India. The purpose of this Authority is to resolve the grievances and disputes between the electricity consumers and their electricity service providers in a summary way, free of cost and also expeditiously. The main goal of this Authority is to ensure fair and efficient resolution of consumer complaints and to promote transparency and accountability in the electricity supply industry. The Hon'ble High Court in the order dt.23.11.2020 in W.P.No.20268 in I.A.No.1 of 2020 gave liberty to the rival parties to deal with payment of electricity. Appellants are also included in the rival parties. Therefore having regard to the peculiar facts and circumstances of the case, beyond the definition under the Act and the Regulation it can be concluded that the appellants have locus standi to file the complaint before the Forum and also appeal before this Authority.

22. Respondent No.2 has issued the impugned notice demanding to pay Rs.5,29,366/- for the subject Service Connection on the ground that the said meter is connected to the motor to lift the water from the borewell and then to the water tank and thereafter to the respective houses. It appears initially by mistake the said Service Connection was released under LT-III Category which is not correct. The question is whether M/s. Golf Pride Homes Welfare Society can avail Category-III Tariffs. At this stage it is necessary to refer to the Tariff

Order of Hon'ble Telangana State Electricity Regulatory Commission for FY 2023-24 which is reproduced here-under:-

Clause 1.10(i):- Water works and 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.

Now it is necessary 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 which 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. As per the said Clause Golf Pride Homes Welfare Society is not a registered Co-operative Society, hence does not fall under LT-III Category. On inspection and on satisfaction of respondent Nos. 1 to 6 they gave the notice rightly and therefore the amount in question has to be paid.

WHO HAS TO PAY THE AMOUNT

23. Appellant No.2, in the email sent to this office today requested also to decide as to who has to pay the balance amount. Different cases are pending before different Forums. Now this Authority is not going to touch such controversy by directing any particular party to pay the amount, This Authority is only deciding as to the legality of the impugned notice demanding to pay the amount. Therefore it is for the respective parties to decide. Apart from that the Hon'ble High Court has also gave liberty to respondent No. 4 to 12 in W.P.No. 20268 of 2020 in I.A.No. 01 of 2020 on 07/12/2020 stating that the payment by itself shall not confer any right on respondents 4 to 12 therein. In view of these factors, I hold that the demand made by respondent No. 2 to pay Rs.5,29,366/- is correct and legal and is not liable to be set aside and the appellants have locus standi to file the complaint and also the present appeal and the Award of the learned Forum is liable to be confirmed in rejecting the complaint for different reasons. These points are accordingly decided.

POINT No. (iv)

24. In view of the findings on point Nos. (i) to (iii), the appeal is liable to be rejected.

RESULT

25. In the result, the appeal is rejected, without costs and the Award of the learned Forum is confirmed but for different reasons. The notice issued by respondent No.2 demanding Rs.5,29,366/- is correct and legal. Out of the said amount, an amount of Rs.2,65,000/- (Rs.1,50,000/- + Rs.1,15,000/-) was already paid. The balance amount is to be paid in (12) monthly equal instalments. The 1st instalment shall be paid on or before 30.09.2023. The remaining monthly instalments shall be paid every month thereafter. Further the respondent Nos. 1 to 6 are directed not to add any surcharge on the balance amount..

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 10th day of August 2023.

Sd/-
Vidyut Ombudsman

1. Col. Rajneesh Nagpaul (Retd), H.No. 5-8-34/A/38, Golf Pride Homes, Swaran Andhra, Phase-II, Yaprak, Secunderabad - 500 087.
Cell: 7893663447.
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9. Lt.Col. R. Ravi Shankar (Retd.), Plot No.51, Golf Pride Homes, Swaran Andhra, Phase-2, Yapral,Secunderabad, Cell: 9440834795.

Copy to

10. 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.

