



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**

WEDNESDAY THE THIRD DAY OF AUGUST
TWO THOUSAND AND TWENTY TWO

Appeal No. 37 of 2021-22

Between

M.A.Rahman, S/o. Late M.A.Razak, H.No.90/C, Nallagutta, Ramgopalpet,
Secunderabad - 500 003. Cell 9848433206.Appellant

AND

1. The Assistant Divisional Engineer / Operation / Balanagar / TSSPDCL /
Secunderabad.
2. The Assistant Accounts Officer / ERO / Bowenpally / TSSPDCL /
Secunderabad.
3. The Divisional Engineer / Operation / Bowenpally / TSSPDCL /
Secunderabad.
4. The Superintending Engineer / Operation / Secunderabad Circle / TSSPDCL /
Secunderabad. Respondents

This appeal is coming on before me for final hearing on 27.07.2022 in the presence of Sri D.K.Jain, counsel for the appellant and Sri P. Surya Prakash - ADE/OP/Balanagar and Sri Ch. Nageswara Reddy - AAO/ERO/Bowenpally, representing the other respondents also 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 - II, Hyderabad - 45

(in short 'the Forum') of Telangana State Southern Power Distribution Company Limited (in short 'TSSPDCL') vide Lr.No. Chairperson/CGRF-II/TSSPDCL/D.No.492/2021, Dt. 23.11.2021.

CASE OF THE APPELLANT

2. The case of the appellant is that his mother late Noorunissa Begum has purchased Plot No. 47 (SCB No. 6-4-056), measuring 252 Sq. yards under a registered sale deed and she constructed a house consisting of cellar plus two floors. She obtained three phase electricity supply vide Service Connection No. BZ036224 installed on 31.12.1997. The mother of the appellant died on 18.06.2012. The appellant and his five younger brothers, one elder brother viz., Md. Omer Asif and four sisters are the legal heirs.

3. The elder brother of the appellant, without having any manner of right over the house in question, transferred the house in favour of his son Mohammed Alfaran on 04.07.2020 under a registered Settlement Deed bearing document No. 766/2020 by misrepresentation that he is the only son of late Smt. Noorunissa Begum. The electricity Service Connection was also changed from Noorunissa Begum to Mohammed Alfaran without having any manner or right. The appellant has also filed a Writ Petition No. 5263 of 2020 before the Hon'ble High Court of Telangana to declare the registered Settlement Deed stated above as null and void etc. A cheating case under Section 420 read with 34 I.P.C of Police Station Bowenpally in Cr.No.133/2021 was also filed against

Md Omer Asif, Mohammed Alfaran and another. Therefore it is prayed to delete the name of Mohammed Alfaran and restore the name of Noorunnisa Begum in the electricity Service Connection meter.

AWARD OF THE FORUM

4. The learned Forum rejected the complaint in view of Clause 2.37 of Regulation 3 of 2015 on the ground that it has no jurisdiction to entertain the complaint as the Writ Petition is pending before the Hon'ble High Court.

GROUND OF THE APPEAL

5. In the affidavit filed in support of the appeal, it is, inter-alia, submitted that the respondents have changed the electricity Service Connection No.BZ036224 from Noorunnisa Begum to Mohammed Alfaran without proper authority and enquiry. Accordingly it is prayed to record the name of Noornussia Begum in the electricity Service Connection No.BZ036224.

6. In the written submissions filed by respondent No.1, it is, inter-alia, submitted that basing on the registered Settlement Deed No. 766/2020 dated 04.07.2020 and other documents the name was changed in respect of Service Connection No.BZ036224.

ARGUMENTS

7. It is submitted by the learned counsel for the appellant that the elder brother of the appellant has misrepresented the authorities by stating that he is the only legal heir of his mother and got executed the Settlement Deed and

mutated the house in the name of his son and also got changed the electricity Service Connection in the name of his son Mohammed Alfaran illegally. Therefore, it is prayed to order for retransferring the electricity Service Connection No.BZ036224 in the name of the mother of the appellant or in the names of all the legal heirs of his mother.

8. On the other hand, it is argued on behalf of the respondents that basing on the registered Settlement Deed and other documents only, the Service Connection was changed in the name of the new consumer after following the procedure. Therefore, it is prayed to reject the appeal.

POINTS

9. The points that arise for consideration are:-
- i) Whether the Service Connection No. BZ036224 is to be changed from the name of Mohammed Alfaran to the name of the mother of the appellant or in the names of all the legal heirs of his mother?
 - ii) Whether the Award passed by the learned Forum is liable to be set aside? and
 - iii) To what relief.

SETTLEMENT BY MUTUAL AGREEMENT

10. Both the parties appeared before this authority on 27.07.2022. 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

11. 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

12. The admitted facts are that earlier the electricity Service Connection was existing in the name of one Smt. Noorunissa Begum. She is the mother of the appellant. The respondents have changed the said Service Connection in the name of one Mohammad Alfaran, as requested basing on the registered Settlement Deed No. 766/2020 Dated 04.07.2020. The said Settlement Deed is subsisting and not cancelled as on today.

13. It is also an admitted fact that the appellant has filed a Writ Petition before the Hon'ble High Court vide W.P.No.5263 of 2021 which is pending. It appears that a charge sheet was filed against one Mohammed Omar Asif and his son Mohammed Alfaran and another in Crime No. 133/2021 of Police Station, Bowenpally, before the learned XI Additional Chief Metropolitan Magistrate, Secunderabad.

CRUX OF THE CASE

14. Now it is necessary to refer to Clause 2.37 of Regulation No. 3 of 2015 (in short 'Regulation') of Hon'ble Telangana State Electricity Regulatory Commission, 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

The learned Forum has rejected the complaint of the appellant on the ground that Writ Petition No. 5263 of 2020 is pending.

15. As already stated, W.P.No. 5263 of 2020 is pending before the Hon'ble High Court touching almost the same subject. Further the registered Settlement Deed is subsisting as of today. The Clause 2.37 of the Regulation makes it quite clear that where any case is pending touching the same subject before any Court etc., complaint is not maintainable before the Forum. The learned Forum has considered Clause 2.37 of the Regulation in the correct perspective and passed the Award accordingly. Therefore the appeal is also not maintainable. Hence, these points are accordingly decided against the appellant and in favour of the respondents.

Point No. (iii)

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

RESULT

17. In the result, the appeal is rejected, without costs, confirming the Award passed by the Forum.

Typed to my dictation by Office Executive-cum-Computer Operator, corrected and pronounced by me on this the 3rd day of August 2022.

Sd/-

Vidyut Ombudsman

1. M.A.Rahman, S/o. Late M.A.Razak, H.No.90/C, Nallagutta, Ramgopalpet, Secunderabad - 500 003. Cell 9848433206.
2. The Assistant Divisional Engineer / Operation / Balanagar / TSSPDCL / Secunderabad.
3. The Assistant Accounts Officer / ERO / Bowenpally / TSSPDCL / Secunderabad.
4. The Divisional Engineer / Operation / Bowenpally / TSSPDCL / Secunderabad.
5. The Superintending Engineer / Operation / Secunderabad Circle / TSSPDCL / Secunderabad.

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