



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

TUESDAY THE TWENTY EIGHTH DAY OF MARCH
TWO THOUSAND AND TWENTY THREE

Appeal No. 38 of 2022-23

Between

Sri Suman Agarwal, s/o. Late Nandlal Agarwal, aged about 61 years.
Beneficiary of [S.C.No.M1009269](#) is Sri Dhanraj and for [S.C.No.M200068](#) the
beneficiary is Sri A. Keshav Rao, [H.No.20-3-648](#) & [20-3-649](#), Hussaini Alam,
Hyderabad -500 006. Cell No. 9246564016 and 9440944114.

.....Appellant

AND

1. The Assistant Engineer/Operation/Hussain Alam/TSSPDCL/Hyderabad.
2. The Assistant Divisional Engineer / Operation / Charminar / TSSPDCL / Hyderabad.
3. The Assistant Accounts Officer/ERO/Salarjung/TSSPDCL/Hyderabad.
4. The Divisional Engineer/Operation/Charminar/TSSPDCL/Hyderabad.
5. The Superintending Engineer/Operation/Hyderabad South Circle /TSSPDCL/Hyderabad.

..... Respondents

This appeal is coming on before me for final hearing on 21.03.2023 in the presence of Sri Ravinder Prasad Srivatsava - authorised representative of the appellant and Sri K. Vijay Kumar - ADE/OP/Charminar 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.243/2022-23 Hyderabad South Circle, dt.09.12.2022.

CASE OF THE APPELLANT BEFORE THE FORUM

2. The case of the appellant is that the beneficiaries filed the complaint before the learned Forum stating that they are the consumers of the Service Connection Nos. M1009269 and M2000068 for supply of 1KW power at H.No.-20-3-648 and H.No.20-3-649, Hussaini Alam, Hyderabad respectively. The respondents have issued a notice demanding to pay Rs 30,907/- arrears of M/s.Jalveer Soap Factory, bearing Service Connection No. M2004026 as the Service Connections of the complainants are link services to the said service. The said notice is illegal. The claim is barred by limitation. The complainants are nothing to do with the Jalveer Soap Factory. Therefore it was prayed to set-aside the claim of the respondents.

WRITTEN REPLY OF THE RESPONDENTS BEFORE THE FORUM

3. In the written reply submitted by respondent No.1, it is stated that the Service Connection No. M2004026 belonged to M/s. Jalveer Soap Factory. One Nandlal was its proprietor. Its premises was H.No.20-3-652. The said factory was to pay Rs 30,907/- to the respondents towards electricity charges.

The complainants are consumers of the respondents and their premises are existing where Jalveer Soap Factory was existing. Therefore the consumers are liable to pay the due amount.

4. In the written reply submitted by respondent No.2 and 3, they have also stated the facts similar to respondent No.1.

AWARD OF THE FORUM

5. After considering the material on record and after hearing both sides, the learned Forum has rejected the complaint.

6. Aggrieved by the impugned Award passed by the learned Forum, the present appeal is preferred by the appellant, contending among other things, that the appellant and the beneficiaries are nothing to do with the Jalveer Soap Factory. The Award is in violation of the amended Clause 4.8.1 of the General Terms and Conditions of Supply (in short 'the GTCS'). Therefore it is prayed to set-aside the Award and the impugned notice.

WRITTEN SUBMISSIONS OF THE RESPONDENTS

7. In the written reply of respondent No.2, before this Authority it is submitted that the Service Connection No. M2004026 was released in favour of M/s.Jalveer Soap Factory and one Nandlal Agarwal was its proprietor. The present consumers are connected with the premises of the said soap factory. Therefore they are liable to pay the arrears.

8. In the rejoinder filed by the appellant, it is stated that the claim is barred by limitation under Sec. 56 (2) of the Electricity Act (in short 'the Act').

9. Heard both sides.

POINTS

10. The points that arise for consideration are:-

- i) Whether the appellant is not liable to pay the amount demanded by the respondents?
- ii) Whether the impugned Award of the learned Forum is liable to be set aside? and
- iii) To what relief?

POINT No. (i) and (ii)

ADMITTED FACTS

11. It is an admitted fact that the respondents have released the electricity Service Connection No. M2004026 in favour M/s.Jalveer Soap Factory at premises no 20-3-652, Hussaini Alam, Hyderabad. One Nandlal was its proprietor.

SETTLEMENT BY MUTUAL AGREEMENT

12. 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

13. 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

14. The appellant Sri Suman Agarwal s/o. Nandlal Agarwal filed the present appeal through his representative Sri Ravinder Prasad Srivatsava to set aside the disconnection notice of link service bearing Lr. No. 762 dt.27.10.2022. The record shows that respondent No.1 AE/OP/Hussaini Alam gave notice for disconnection of link service of Jalveer Soap Factory, Sri Nandlal, 20-3-652, Hussaini Alam, wherein it was stated that the Service Connection No. M2004026 pertaining to M/s. Jalveer Soap Factory, 20-3-652 has long term arrears of Rs. 30,907/- and that non-payment of arrears the link services, Service Connection Nos, M2000577, M2002073, M1009269, M2000067 and M2000068 are liable for disconnection. The details of the (5) Service Connections are as stated below:-

TABLE-I

| Sl. No. | Service Number | Name of the consumer | Residential Address | Category | Date of release | Relation with Nandlal Agarwal |
|---------|----------------|----------------------|-------------------------|----------|-----------------|-------------------------------|
| 1. | M2000577 | Navneeth Agarwal | 20-3-652, Hussaini Alam | II | 01.10.1988 | Son |
| 2. | M2002073 | Nandlal Agarwal | 20-3-650, Hussaini Alam | II | 01.10.1988 | Husband |

| | | | | | | |
|----|----------|-------------|----------------------------|----|------------|---------------|
| 3. | M1009269 | Dhanraj | 20-3-648, Hussaini Alam | I | 29.10.2003 | Father-in-law |
| 4. | M2000067 | Ramiah | 20-3-651, Hussaini Alam | II | 01.10.1988 | Tenant |
| 5. | M2000068 | Keshava Rao | 20-3-649, Hussaini Alam | II | 01.10.1988 | Tenant |

The disputed Service Connection No. M2004026 pertaining to M/s. Jalveer Soap Factory, (Nandlal), at premises No. 20-3-652, Hussaini Alam was released on 27.07.1988. It appears that Nandlal was one of the partners. The respondents claimed that the above given (5) services pertaining to the family members of Sri Nandlal Agarwal are accountable for payment of long standing arrears of M/s. Jalveer Soap Factory. The record shows that vide document No. 42 of 1969 the partners of the firm M/s. Jalveer Soap Factory 1. Mohanlal s/o. Badrinarayan 2. Bihari Lal s/o. Bidrichand and 3. Nandlal s/o. Dhanraj have executed the sale deed in favour of Pushpa bai w/o. Nandlal bearing premises consisting of house and Mulgies Municipal No. 20-3-638 to 640 and 648 to 652. **All the partners decided to dissolve the partnership and to get its assets and liabilities distributed among themselves.** Accordingly the liabilities of M/s. Jalveer Soap Factory were acquired by late Smt. Pushpa Bai. In due course of time Smt. Pushpa Bai died intestate on 25.03.1985 and her husband Sri Nandlal Agarwal predeceased her on 20.09.1980 leaving behind their (4) sons as their only legal heirs and successors to inherit the above said property. Subsequently the legal heirs i.e. 1. Sri Suman Kumar Agarwal 2. Sri

Navneet Agarwal 3. Sri Rohit Agarwal and 4. Sri Rajesh Agarwal acquired the total property as the successors to inherit the property vide document No. 3694 of 2013 of the property measuring 626 sq. yards (purchased by Smt. Pushpa Bai w/o. Sri Nandlal) H.No.20-3-638 to 640 and 648 to 652, as under:-

TABLE-II

| Sl. No | Name of the consumer | Residential Address | Service Connection No. | Total Area |
|--------|-------------------------|-------------------------------------|---------------------------------------------|----------------------------|
| 1. | Sri Suman Kumar Agarwal | 20-3-648 and 649, Hussaini Alam | M1009269 and M2000068 | 62 sq yards (mulgi) |
| 2. | Sri Navneet Agarwal | 20-3-650, 651 and 652 Hussaini Alam | M2004026 M2000577 M2000067 & M2002073 | 62 sq yards (mulgi) |
| 3. | Sri Rohit Agarwal | 20-3-640, Hussaini Alam | - | 203.5 sq yards (Open land) |
| 4. | Sri Rajesh Agarwal | 20-3-638 and 639, Hussaini Alam | - | 203.5 sq yards (Open land) |

A perusal of the above given particulars goes to show that the total property of 626 sq.yards previously belonged to the partnership firm M/s. Jalveer Soap Factory. It is relevant to reproduce Clause 5 page No. 4 of the document No.3694/2013 i.e. the partition deed between the four brothers, which is as under:-

“That the parties herein are already in possession of their respective allotted portions. That the Municipal, Water and Electricity charges shall be paid by the respective parties in respect of their allotted portion separately.”

The above given condition was mutually agreed and executed by the parties in the partition deed. By virtue of such arrangement the H.No.20-3-652 being the registered address of the electricity Service Connection No. M2004026 in the name of M/s. Jalveer Soap Factory shall fall under the property of Sri Navneet Agarwal, owner of the premises 20-3-652. Though it is crystal clear that as per the Document 42 of 1969 assets and liabilities of Jalveer Soap Factory are liable to be inherited over total property 20-3-638 to 640 and 648 to 652. But in view of the mutual agreement in the partition deed in 2013, the property bearing portion of H.no 20-3-652 holds the direct liability of the arrears. Hence as per the allotted portion the electrical arrears pending against the said address shall be directly on Sri Navneet Agarwal and as per the Clause 4.8.1 of amended Regulation 7 of 2013, the Service Connection Nos. M2000577 M2000067 & M2002073 of Sri Navneet Agarwal bearing address 20-3-650, 20-3-651 and 20-3-652 shall be the link service to the Service Connection No. M2004026 having the arrears of Rs.30,907/- and the Service Connections pertaining to the present appeal M1009268 and M2006068 are exempted.

15. The appellant opposed the link service notice also on the grounds that the subject is hit by Sec.56(2) of the Act which is reproduced here-under:-

“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.”

The subject is not hit by the Sec 56(2) of the Act, since the commencement of limitation of (2) years starts from the due date of fresh link service notice to be issued by the respondents against the Service Connection Nos. M2000577, M2000067 and M2002073 of Sri Navneet Agarwal, H.No.20-3-652, which is supported by the amended Clause 4.8.1 of the Regulation 7 of 2013.

16. The learned authorised representative of the appellant has relied upon the judgement of the Hon'ble Supreme Court in ASST. ENGINEER (D1) AJMER VIDYUT VITRAN 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.

17. In view of the above discussions, the appeal is liable to be allowed. The Service Connections M1009269 and M2000068 in this case are exempted from payment of arrears of Service Connection No. M2004026. Accordingly, I hold that the appellant is not liable to pay the amount demanded by the respondents and the Award passed by the learned Forum is set aside.

POINT No. (iii)

18. In view of the findings on point No. (i) and (ii), the impugned Award of the Forum is liable to be set aside.

RESULT

19. In the result, the appeal is allowed, setting aside the Award passed by the learned Forum.

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 28th day of March 2023.

Sd/-
Vidyut Ombudsman

1. Sri Suman Agarwal, s/o. Late Nandlal Agarwal, aged about 61 years, Beneficiary of [S.C.No.M1009269](#) of Sri Dhanraj and [S.C.No.M200068](#) of Sri A. Keshav Rao, [H.No.20-3-648](#) & [20-3-649](#), Hussainialam, Hyderabad - 500 006. Cell No. 9246564016 and 9440944114.
2. The Assistant Engineer/Operation/Hussain Alam/TSSPDCL/Hyderabad.
3. The Assistant Divisional Engineer / Operation / Charminar / TSSPDCL / Hyderabad.
4. The Assistant Accounts Officer/ERO/Salarjung/TSSPDCL/Hyderabad.
5. The Divisional Engineer/Operation/Charminar/TSSPDCL/Hyderabad.
6. The Superintending Engineer/Operation/Hyderabad South Circle /TSSPDCL/Hyderabad.

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.

