

BEFORE THE VIDYUT OMBUDSMAN



:: Present ::

C.Ramakrishna

Date: 09-12-2013

Appeal No. 68 of 2013

Between
Sri. M. Muttaiah,
President,
Vengalraonagar Colony Welfare Association,
Shop No.1, Market Complex,
Vengalraonagar Colony, Hyderabad-38

... Petitioner

And

1. The Assistant Engineer, Operation, APCPDCL, Hyderabad.
2. The Assistant Divisional Engineer, Operation, APCPDCL, Hyderabad.
3. The Divisional Engineer, Operation, APCPDCL, Hyderabad.

... Respondents

The above appeal filed by the appellant Association on 01-07-2013 has come up for final hearing before the Vidyut Ombudsman on 06-12-2013 at Hyderabad. Sri. M. Muttaiah, President of the appellant Association along with his Advocate was present. None of the respondents was present. Having considered the submissions of the appellant Association and the material available on record, the Vidyut Ombudsman passed / issued the following:

AWARD

The gist of the appeal filed by the appellant Association is that the Assistant Engineer, Operation, S.K.Nagar, APCPDCL has not been releasing electricity supply connection to them on the ground that arrears are outstanding against the premises from the previous occupants of the premises.

2. None of the respondents filed any written submission against the appeal nor did any of them appear before this authority on the date of hearing, for presenting their point of view.
3. Having posted the case for hearing on 17-06-2013, 12-07-2013, 21-08-2013 and 06-12-2013, and having noted that a prospective consumer is made to suffer

unnecessarily for no fault of his, the Vidyut Ombudsman is constrained to consider the written and oral submissions of the appellant Association, the material available on record and dispose of the appeal.

4. The factual position and the chronology of events that have emerged out of the submissions made by the appellant Association during the hearing on 06-12-2013, are as under:

The appellant Association admittedly runs some welfare activities for their colony. Admittedly it is a non profit welfare Association that has taken Shop No.1 of the Commercial Complex of Andhra Pradesh Housing Board ("APHB" hereafter),Vengalraonagar Colony on rent from the APHB during the year 2001. Reportedly they have been running their welfare activities in the rental accommodation since then. APHB being the owner of the premises had been renting out the premises without any electricity supply connection ever since the complex was constructed. Before the said welfare Association took the shop on rent from APHB, one Sri. Ch. Satyanaraya Raju had rented the premises and vacated the premises after piling up arrears amounting to Rs.11,335/-. Initially when the appellant Association rented the premises in the year 2001, it never felt the need for an electricity connection, as its activities were then very limited. But a few years down the line, the appellant Association felt the need for an electricity connection as its welfare activities have grown. But the respondent officers had not been releasing new connection on the ground that arrears amounting to Rs. 11,335/- were pending from an electricity connection that was given to the earlier occupants of the premises.

5. Appearing before the CGRF for making submissions in C.G.No.247/2011-12, the respondents took the stand that there were arrears outstanding against the S.C.No.SZ015588 amounting to Rs.11,335/- as on the year 2000. They further informed that a notice under R.R. Act has been issued to the premises for realizing payment. They took the view that as process under R.R. Act is going on, new connection to the same premises cannot be released until and unless the outstanding arrears are realized / cleared.

6. Its a very typical case of the consumer not knowing his rights, the respondent officers treating a new connection request as lackadaisically as

possible and the CGRF concerned disposing of the complaint of the appellant in a routine manner.

7. Section 43 of the Indian Electricity Act, 2003 read with Clause 5 of the General Terms & Conditions of Service ("GTCS") issued by the APERC casts a duty on the DISCOMs for supplying electricity to the owner or occupier of the premises within one month from the date of receipt of an application for new connection. Further, section 43 (3) prescribes a penalty which may extend to Rs.1,000/- for each day of default in case of failure on the part of the Distribution Licensee. Clause 5.2.3 of the GTCS issued by the APERC specifies that an applicant who is not the owner of the premises shall submit an indemnity bond either by the owner of the premises in favour of the Distribution Company to indemnify the company for any loss that may be caused to it by the applicant. If the applicant is not able to secure such an indemnity bond from the owner of the premises, the Distribution Company can require the applicant to pay three times the security deposit apart from providing proof of his being in lawful occupation of the premises. Such being the legal position, its highly curious as to how the respondent officers have allowed accumulation of arrears in the first place by the previous tenant Sri. Ch. Satyanarayana Raju.

8. The respondent officers ought to have obtained either an indemnity bond from the owner of the premises or adequate security deposit from the previous tenant himself in the absence of indemnity bond forthcoming from APHB. Apparently, this was not done in time and arrears were allowed to accumulate against the service connection and the present situation of a new tenant applying for connection, the respondent officers refusing to release the connection and the DISCOM concerned losing out on revenue for close to 12 long years arose. Nothing is available on record, other than the statement attributed to the respondent Assistant Engineer before the CGRF regarding ongoing process under R.R. Act. Even if it were true that proceedings under R.R. Act have been commenced for recovery of arrears, it is not clear as to how the applicant can be made to suffer for want of conclusion of process under R.R. Act against the earlier occupant of the premises. Under the R.R. Act provisions what can be attached are the movable / immovable properties of the person from whom arrears are due. In the instant case, fixing a notice on the premises owned by the APHB while leaving out the movable / immovable properties of the previous

tenant viz., Sri. Ch. Satyanarayana Raju, the actual defaulter, who reportedly is residing still in the very same Vengalraonagar Colony area is curiouser to say the least.

9. As if these curious goings on are not enough, the routine manner in which the CGRF disposed of the complaint before it saying that the connection be released after duly realizing the arrears, totally skirts the core issue of non-release of connection to an applicant, in spite of the applicant being not responsible for the arrears at all and in spite of the supply duty cast on the licensee.

10. One more aspect that has captured the attention of this authority is the applicable Act and Rules, if the application for supply of the appellants had been filed before the commencement of the Indian Electricity Act, 2003. Even if turns out that the appellant had made an application for supply before the commencement of Indian Electricity Act, 2003 the respondent officers shall process the application as if it were made under the provisions, rules and regulations of the Indian Electricity Act, 2003 and release the connection, if it had otherwise met all the prescribed requirements. The appellants shall not be denied a connection on the ground that there are some arrears pending against the premises from a previous tenant. The respondent officials are directed to process the pending application, if any, from the appellants in the aforementioned manner, within 30 days from the date of receipt of this order. If there is no pending application from the appellant association, the appellant Association is free to file an application and pay the requisite fee. On such an application being made, the respondent officers shall release the new connection within 30 days from the date of receipt of such application, duly collecting either an indemnity bond from Andhra Pradesh Housing Board or 3 times the normal security deposit from the appellant Association before releasing the new connection. Respondent officers and their authorities shall proceed against the previous tenant Sri. Ch. Satyanarayana Raju under R.R. Act or any other applicable Act for realizing the outstanding arrears.

11. The appellant Association shall communicate (in writing) to the respondents the fact of its acceptance of this award within 30 days from the date of receipt of this award, failing which the respondent officers are not under any

obligation for the application pending before them, if any.

12. The respondent officers shall intimate their compliance of this order, to the Vidyut Ombudsman within one week from the date of receipt of the acceptance communique from the appellant Association, or before the expiry of one week from the date of receipt of this order by them which ever is earlier.

This order is signed and corrected on 9th Day of December, 2013.


VIDYUT OMBUDSMAN

To

1. Sri. M.Muttaiah, President
Vengalraonagar Colony Welfare Association,
Shop No.1, Market Complex,
Vengalraonagar Colony, Hyderabad-38

2. The Assistant Engineer, Operation, APCPDCL, S.K. Nagar, GTS Colony,
Hyderabad.

3. The Assistant Divisional Engineer, Operation, APCPDCL, Near Sri Nagar Colony
Park, Ameerpet, Hyderabad.

4. The Divisional Engineer, Operation, APCPDCL, GTS Colony, Erragadda,
Hyderabad.

Copy to:

1. The Chairperson, Consumer Grievances Redressal Forum Greater Hyderabad
Area, APCPDCL, D.No.8-3-167/E/1, Central Power Training Institute (CPTI)
Premises, GTS, Colony, Vengal Rao Nagar, Erragadda, Hyderabad-45.

2. The Secretary, APERC, 11-4-660, 5th Floor, Singareni Bhavan, Red Hills,
Hyderabad-04.

