

BEFORE THE VIDYUT OMBUDSMAN



:: Present ::

C.Ramakrishna

Date: 20-12-2013

Appeal No. 72 of 2013

Between

Sri. S.Sankara Reddy

C/o. Sankar Hospital, D.No.03/1373,

Holmespetta Village,

Proddatur (Post & Mandal),

Kadapa - Dist.

... Petitioner

And

1. Assistant Accounts Officer, ERO, Proddatur,
2. Asistant Engineer, Opeation, East, Proddatur,
3. Assistant Divisional Engineer, Operation, Town, Proddatur,
4. Additional Assistant Engineer, DPE-I, Kadapa,
5. Divisional Engineer, Assessments, Tirupati.

... Respondents

The above appeal filed on 28-05-2013 has come up for final hearing before Vidyut Ombudsman on 19-12-2013 at Hyderabad. Sri. D. Venkata Reddy authorized representative of the Petitioner (hereinafter "Appellant") and the AAO/ERO, Proddatur, ADE/Operation, Proddatur, AAE/DPE-I, Kadapa &

o/c

DE/Assessments, Tirupati on behalf of the respondents were present. Having considered the oral and written submissions of the Appellant as well as the respondents and the material available on record, the Vidyut Ombudsman passed / issued the following award:

AWARD

The appeal arose out of the inspection taken up by the AAE/DPE-I, Kadapa on 04-01-2013 of the Appellant's service connections. He observed that there were 6 service connections in all in the premises and found that three of them which were obtained for domestic purposes, were being used for commercial purposes. Consequent to the inspection report, action under Section 126 of the Indian Electricity Act, 2003 was taken and the DE/Assessments passed final orders. Thereupon the Appellant approached the CGRF, APSPDCL, Tirupati and the forum disposed of the appeal in C.G.No.14/2013-14. Aggrieved by the CGRF's order the Appellant filed the present appeal before the Vidyut Ombudsman.

2. The grievance of the Appellant is that:

- the procedure adopted by the AAE/DPE-I, Kadapa for inspection of the premises is against the provisions of the APERC Regulations, Sections 42(5) and 127 of the Indian Electricity Act, 2003, Article 16 of the Constitution of India and procedure in vogue;



- the AAE/DPE-I, Kadapa failed to notice that there are actually 7 service connections and wrongly mentioned in his report that there were 6 service connections;
- the AAE/DPE-I has entered the premises without showing any identification at the time of inspection;
- the inspection notes were not prepared in the presence of the consumer;
- the assessed amounts mentioned in the inspection notes are not in accordance with the rules in vogue; and
- the disconnection of power supply for failure to pay the bills was highhanded.

The Appellant prayed for suspension of the inspection report, compensation of Rs.1 Lakh, maintenance of status quo, suspension of the bills issued; adjustment of all the amounts already paid, continuance of the connections under domestic category, initiating disciplinary action against the respondent officers for violation of procedures, and awarding costs.

3. The ADE/Operations, Proddatur, whose submissions were all seconded by the other respondent officers present at the time of hearing, in his submission has stated that the inspection of the premises was done as per the departmental procedure in vogue and that the final orders passed by the DE/



Assessments were given effect to by changing the category from domestic to commercial from February 2013 onwards. He further submitted that aggrieved by the final assessment orders, the consumer approached the CGRF, Tirupati and that the CGRF disposed of the appeal before it by stating that the consumer shall pay the amounts in accordance with the final orders of the DE/Assessments. He also submitted that the consumer has already paid the amounts due in accordance with the final assessment orders in respect of two service connections, but has not paid the amount assessed in respect of one service connection (61066) in addition to regular C.C. charges. It was this non payment which resulted in disconnection of the service on 25-11-2013. And that immediately on part payment of the amounts due, the service connection was restored and that the payment of the balance amount is awaited.

4. On a perusal of the inspection record produced at the time of hearing and the orders passed by the authorities below, it is evident that the contentions raised by the Appellant do not have any substance in them. The Appellant's contention that the procedure adopted by the AAE/DPE-I, Kadapa for inspection of the premises is against the provisions of the APERC Regulations, Sections 42(5) and 127 of the Indian Electricity Act, 2003, Article 16 of the Constitution of India and procedure in vogue is not substantiated. The regulations framed by the APERC lay down primarily that the inspecting authority should not do any inspection at the back of the consumer. As seen



from the record, the inspecting authority had clearly carried out the inspection in the presence of the consumer and had obtained the signature of the consumer also on the inspection report. Sections 42(5) and 127 of the Indian Electricity Act do not speak of any procedure connected with inspection. It's not clear as to why the Appellant was mentioning Article 16 of the Constitution of India, in his appeal. It speaks of equality of opportunity in matters of public employment and hence is not at all connected with the present issue under consideration. It appears that the Appellant is quoting these provisions of law only for the sake of raising some objection. All the authorities below acted properly as per the procedure in vogue and made the assessment. The next contention of the Appellant is that the inspecting authority had failed to notice that there are seven connections. The inspecting authority who was present at the time of hearing clarified that he did notice the seventh connection in the premises and that he did not raise an issue then as it was being used exclusively for the purpose of pumping water. If by raising this contention, the Appellant had been hoping to blow holes in the inspection report, he did not succeed in it at all. Having noticed that the seventh connection is being used exclusively for the purpose of pumping water, the inspecting authority ought to have probed deeper and satisfied himself whether or not an exclusive connection can be given to a consumer only for pumping water. Usually, in domestic category, service connections are released only when there are separate kitchens in the premises. On what

basis is an exclusive connection issued or allowed to be used only for pumping water could not be properly explained by any of the respondents. The contention that the inspecting officer did not show any identification card at the time of inspection has been denied by the respondent officer. As the inspection record which bears the signature of the Appellant clearly shows that the inspecting authority was acting only in his official capacity, no credence can be given to the contention of the Appellant. However, the respondent officer shall always carry with him proper identification papers whenever he is inspecting consumers' premises on official duty. The contention that the inspection report was not prepared in the presence of the consumer is not borne by record. There are signatures of the Appellant on the inspection reports. The Appellant's contention that the assessed amounts are not in accordance with the procedure in vogue is also not correct. Without showing clear violations of any existing procedure, the Appellant should not simply air some perceived violation and claim relief. The last contention that the disconnection of the supply was very highhanded does not stand to scrutiny. Without payment of the properly assessed amounts, the consumer Appellant cannot accuse the respondent officers of highhandedness. Every consumer is duty bound to pay the amounts assessed and bills raised by the Distribution Company. If he has grievance about the bills raised or amounts assessed, the proper course available to the consumer is to approach the appropriate authority for relief by following the prescribed procedure. This was not done

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by the consumer in the instant case. Hence, this authority cannot but hold that all the contentions raised by the Appellant are not having any substance in them.

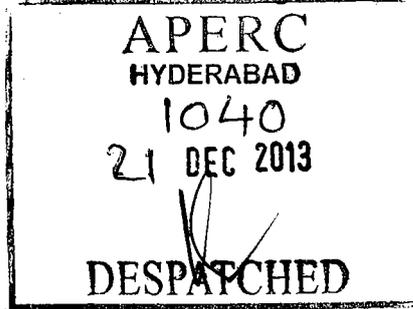
The proper course for the Appellant is that he ought to have approached the SE/Assessments, Tirupati who is the Appellant authority in such cases which fall under the purview of section 126 of the Indian Electricity Act. This authority cannot go into the merits or otherwise of the findings of the inspecting authority as his action falls within the purview of section 126 of the Indian Electricity Act. The Appellant claimed that he made an appeal to the SE/Assessments, Tirupati and produced a photo copy of the letter addressed to the SE/Assessments, Tirupati. But there is no record of the letter having been received by the SE/Assessments, Tirupati. Under these circumstances, the Appellant is advised to submit an appeal before the SE/Assessments, Tirupati again within 15 days from the date of receipt of this order. If an appeal is so filed, the SE/Assessments, Tirupati shall take it on record as if the appeal were filed in time and dispose it of on merits. If the Appellant does not file an appeal as aforesaid, and / or if there is no stay from the Appellate authority, on the amounts due from the consumer, the authorities below are free to take all necessary action to realize the amounts due from him. The respondent officers shall take cognizance of the existence of an exclusive connection for the purpose of pumping water and take appropriate action for



the continuance or otherwise of such a service connection duly following the due procedure prescribed.

5. The SE/Assessments, Tirupati (to whom a copy of this order is marked) shall intimate whether or not an appeal has been filed by the Appellant herein, before him within the now allowed time, before the expiry of 30 days from the date of his receiving a copy of this order.

This order is corrected and signed on this 20th Day of December, 2013.




20/12/13
VIDYUT OMBUDSMAN

To

1. Sri. S.Sankara Reddy, C/o. Sankar Hospital, D.No.03/1373, Holmespeta Village, Proddatur (Post & Mandal), Kadapa - Dist.
2. Assistant Accounts Officer, ERO, Proddatur,
3. Asistant Engineer, Opeation, East, Proddatur,
4. Assistant Divisional Engineer, Operation, Town, Proddatur,
5. Additional Assistant Engineer, DPE-I, Kadapa,
6. Divisional Engineer, Assessments, Tirupati.

Copy to:

1. The SE, Assessments, Tirupati. Corporate Office, Behind Sreenivasa Kalanamandapam, APSPDCL, Kesavayanagutta, Tirupathi-517502.
2. The Chairperson, Consumer Grievances Redressal Forum, APSPDCL, 19-13-65A, Srinivasa Kalyana mandapam, Kesavayanagunta, Tirupati.
3. The Secretary, APERC, 11-4-660, 5th Floor, Singareni Bhavan, Red Hills, Hyderabad-04.