

## BEFORE THE VIDYUT OMBUDSMAN

Present

**K.Sanjeeva Rao Naidu**  
**Vidyut Ombudsman**

Dated: 22 -02-2013

**Appeal No. 6 of 2013**

Between

Smt.C.V.Jayalakshmi

W/o.C.V.Suresh

D.No.9/163, Sreeramulupeta Village

Proddatur post,

Kadapa Dist.

**... Appellant**

**And**

1. Asst.Accounts Officer/ERO/Proddatur
2. Asst.Engineer/Operation/East/Proddatur
3. Asst.Divisional Engineer/operation/Proddatur
4. Asst.Divisional Engineer/DPE-1/Kadapa
5. Divisional Enginer/Operation/Proddatur

**....Respondents**

The appeal / representation filed on 07.01.2013 of the appellant has come up for final hearing before the Vidyut Ombudsman on 04.02.2013 at Tirupathi. Smt. C.V.Jayalakshmi, Advocate and appellant, Sri S.Sreenivasulu, ADE/O/Proddatur, Ms.M.Deepthi, JAO/ERO/Proddatur and Sri M.Nagaraju, AE/DPE-I/Kadapa for respondents present and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following :

### **AWARD**

The appellant filed a complaint against the Respondents for Redressal of her Grievances and stated as hereunder:

1. *She got astonished and flabbergasted by seeing the notice with regard to one of her service No.34932 adding of Rs.30,023/- as penal charges in the recent bills.*
2. *As per the notice, she came to know that one Mr. Nagaraj inspected her house and found some load difference was detected by the said Nagaraj. Infact on that day, the said Nagaraj personally spoke with her husband and said that nothing wrong either in load or any differences were found.*
3. *The said Nagaraj revealed the same in front of the two constables who accompanied the said officer.*
4. *Unfortunately and for the reasons best known to the authorities, they served notice and also added some other development charges in her bills.*
5. *She literally felt agony and mental harassment with regard to these developments by the good office authorities.*
6. *Recently she personally went to the office and raised her contentions before the DE.*
7. *The then DE called some of his subordinate officers and verified records and bills extract and instructed the officers to rectify the same.*
8. *Basing on that the said office authorities raised some credit notes and deducted nearly thousands of Rupees for 2 to 3 times. In the said bill extract the officers recorded the category status as per their wish. The OMR and CMR units were also recorded as per their wish for the period 2009 to 2010. Without her knowledge the department raised some debit notes as per their wish.*
9. *In any of the inspection report or in any record they never taken her consent or any written notice was served to her. She personally feels that some sort of personal harassment on her were existing by one of the office authorities.*
10. *Every bill they are facing much troubles and getting thousands of Rupees as due in the said bills. They personally came to know that one of the officers of the department is creating such havoc in her issue. Being an advocate she personally represented the issue before the officers 3 times, they raised the credit notes and still there is lot of miss calculations wrong readings.*
11. *They are the law binding citizens and they never commit any mistake on their part at any point of time. This type of attitude is nothing but revengeful of one of the officers of the department. One of her service was also disconnected without her acknowledge and one of their service wire neutral wire was disconnected.*
12. *A continuous torture is building up and one of the officer dragging them to trap them with a complete plan. They came to know all of the officers also suggested the said officer not to harass, but the said officer is continuing the same.*
13. *Being an advocate she felt very much worried with the sequence and they also feel some sort of unknown harassment to their family.*

14. Hence, requested for verification of the bills and the payments made towards and all the aspects of accounts and reduce charges and penalties in the interest of justice.

2. The respondents-1,2,3 and 5 i.e. the Assistant Accounts Officer/ERO/ Proddatur, the Assistant Engineer/Operation/East/Proddatur, the Assistant Divisional Engineer/ Operation/Proddatur and Divisional Engineer/ Operation/Proddatur submitted their combined written submissions as hereunder:

1. The SCNo:34932, category-I of operation section, East, Proddatur which was released in the name of Smt. C.V.Jayalakshmi, Proddatur was inspected by Sri M.Nagaraj Kumar, AE, DPE-I/Kadapa on 04-2-2011 and booked malpractice case against the service for an amount of Rs.23,134/-, Provisional Assessment order was issued vide LrNo:ADE/O/PDR/SBE/DNo:4009/11, Dt:8-2-2011. The consumer has refused to take the notice and also not paid the 50% of Malpractice amount, due to non payment of 50% amount the service was disconnected on 20-9-2011.
2. The Malpractice case was finalized vide order No: DE/Assessments/TPT/ FNo:23-11/PRDT DNo: 345/11, Dt:29-10-2011 for an amount of Rs 21,765/-.
3. The consumer has refused to take final order notice also. Based on the final assessment order an amount of Rs. 21,765/- was included in C.C.bill.
4. In the month of 9/2010 the bill of SCNo:34932 was revised due to wrong reading furnished by the PAA for the period from 10/2009 to 10/2010 and demand raised for Rs 26,274/-.
5. Further, an amount of Rs 36,582/- arrears outstanding against HSCNo: 34932 up to the month May2012 including CC.bill and malpractice amount, but the consumer has not paid the arrears amount.
6. The notice was also issued to the consumer vide LrNo: AAE/O/E/PDR/F DN.555/11, dt:12-3-2012 stating that the order live services existing in the same premises(i.e. 1764 category-II and 76226 category-I) will be disconnected, if no payments have been received against the service number 34932.
7. The consumer has refused to take this notice also.

3. After hearing both sides and after considering the material placed before the Forum, the Forum passed the impugned order as here under:

**The complainant is advised that she may pay the said amount of Rs 16,209/- towards the said malpractice without any further dispute to avoid disconnection of her services.**

**Accordingly the case is allowed and disposed off.**

4. Aggrieved by the said order, the appellant preferred this appeal projecting the following grounds:

- (i) The Forum has failed to note the contents of the entire record and consider their pleas. She has specifically contended that, the Forum neither perused the available records nor their pleading in a rational way.
- (ii) The Forum failed to consider their first plea that they being advocates, they never reject the notices which were allegedly said to be served by the concerned persons; and that they are law abiding citizens.
- (iii) In fact no case was booked against them and no notice was served on them. Because on the day they observed that one Nagaraja visited their premises and made thorough enquiry and particularly informed them that, nothing wrong was there in front of two constables who accompanied them. Further the said Nagaraja never took any signature or any acknowledgment on that case.
- (iv) One ADE Mr.Soma Sreenivasulu who bore grudge on them and continuously harassing them. Ignoring on that aspect the Forum made enquiry before that officer and concluded the same. It is ridiculous on the part of the Forum neglecting the eye witnesses who accompanied the said Nagaraja, who is the inspecting official. It is further ridiculous that, when they made allegations against the APSPDCL officer namely Sreenivasulu, the Forum personally enquired this case in front of the said officer. It is not democratic and it is violation of fundamental rights of the person.
- (v) The line man who was present before the enquiry officer himself agreed that no notice was issued to them on any occasion. He agreed twice in front of the Chairman, Forum, DE, Mr.Chiranjeevi, Mr.Nagaraj, ADE, Mr.Soma Sreenivasulu, SE, Mr.Venu Gopal, and one accounts officer.

- (vi) If the notice was rejected by them alleged to be served by Mr.Nagaraja, the inspecting officer, what prevented the concerned officers to send the notice several modes available like registered post, etc.
- (vii) The last remedy to paste the notice on their wall and the same was also not effected. It is purely a case of revenge attitude of the ADE Soma Sreenivasulu.
- (viii) The respondents sent the notices, intentionally to the wrong address i.e they mentioned that they are living in the Holmespet street, even though their house is situated in Sriramulpet, and further her husband's name is written as C.Venkata Suresh instead of his actual name i.e, Chennuru Vankadara Suresh.
- (ix) The said officer mentioned the Door No.as 9/123-1 instead of their actual door no. 9/163 and 9/123. Further they mentioned as V.Vijayalakshmi on that post.
- (x) The Forum failed to consider that total consumption of their house and including the consumer business will be 300-400 units. How do they come that 746 units were misused for one meter while there were two other meters.
- (xi) Their service bearing no. HSC No. 34932, Cat II was disconnected due to non payment of charges. But she used to get the bills for the same meter. This is an illustration to show that the said officer wanted to book another case on them.
- (xii) Another illustration is their service no.1764 which is under Cat-II was disconnected and again he tried to book another case.

5. Now, the point for consideration is, "Whether the impugned order is liable to be set aside? If so, on what grounds?"

6. The appellant vehemently argued by projecting the following grounds:
- (i) She received an information that an amount of Rs.30,023/- as penal charges for SC No.34932.
  - (ii) The respondents have not served any notice and they have sent the notice to the wrong address. They have personally come to know that one of the official in the department is having grudge on them.
  - (iii) the commercial load for which there is an AC and there is no need to utilize the same for her domestic consumption and the Forum has failed to take note of these aspects and erroneously rejected the request made by the appellant.

7. Whereas, the respondents are represented by Sri S.Sreenivasulu, ADE/O/Proddatur, Ms.M.Deepthi, JAO/ERO/Proddatur and Sri M.Nagaraju, AE/DPE-I/Kadapa and have stated that an inspection was made and it was found that consumer was having 3 service connections bearing nos. 1764 Cat-II, 34932 Cat-I and 76226 Cat-I to the premises. It is also stated that on the inspection it was found that the consumer is utilizing the supply SC No.34932 Cat-I meter for commercial load also ie., AC of the first room in the premises and utilizing the same unauthorisedly for the purpose other than for which it is sanctioned even though the consumer is having commercial service in the premises; and that they booked a case of malpractice and estimated the same.

8. As per the material placed it was found that AC was fixed in the left front room of the building. The domestic supply of the premises is connected to the AC, though the premises is utilized for commercial purpose i.e, wholesale of cosmetic items and there was no domestic consumption, in which the front room is located.

9. It was also pointed out by the respondents that though the complainant and her husband were available in the house at the time of inspection none attested the inspection notes and refused to sign. The consumer has accepted her presence at the time of inspection in the grounds of appeal itself. They have mentioned that the

said Mr.Nagaraj visited their premises and made thorough enquiry and informed them that, nothing wrong was there in front of two constables. This shows the consumer was present at the time of inspection.

10. The appellant claims that she is an advocate and she is using for office purpose and advocates premises cannot be treated as commercial and the said ADE/DPE-I wrongly booked a case and the appeal filed by the appellant is to be allowed. This also supports the theory of the respondents to the effect that the AC in the front room is connected to the domestic service.

11. The Forum has observed segregating the consumption pattern and arrived at a conclusion of 1847 units and arrived at a figure of Rs.16209/- instead of Rs.23184/- including supervision charges and electricity duty charges and directed the appellant to pay the same.

12. As per S.126 of Electricity Act, 2003 reads as follows:

### ***126 Assessment***

- (1) If on an inspection of any place or premises or after inspection of the equipments, gadgets, machines, devices found connected or used, or after inspection of records maintained by any person, the assessing officer comes to the conclusion that such person is indulging in unauthorized use of electricity, he shall provisionally assess to the best of his judgement the electricity charges payable by such person or by any other person benefited by such use.**
- (2) The order of provisional assessment shall be served upon the person in occupation or possession or in charge of the place or premises in such manner as may be prescribed.**
- (3) The person, on whom a notice has been served under sub section (2) shall be entitled to file objections, if any, against the provisional assessment before the assessing officer, who may, after affording a reasonable opportunity of hearing to such person, pass a final order of assessment of the electricity charges payable by such person.**

13. The appellant has simply stated that they have not received any communication from the officials though they were physically present at the time of inspection. They cannot now say that they have not received any information. More in particular an Advocate who is on rolls defending cases of the SPDCL, they cannot now claim that they have no knowledge about the same. Though notice is not served, she ought to have proceeded as and when it is known or brought to her notice u/s 126 of EA, 2003, by narrating the grounds of non-receipt of notice, etc.

14. Furthermore, when a case falls u/s 126 of EA 2003, this Authority or the Forum is not competent to entertain any complaint or appeal. It is not a consumer dispute and it is not a case of deficiency of service as the person is unauthorisedly using the power for other purpose other than for which purpose it is sanctioned. The appellant ought to have paid the amount calculated by the Forum (though the Forum has no jurisdiction to entertain). The appellant ought to have proceeded her claim as contemplated u/s 126 of EA 2003 instead of approaching the CGRF or this authority. However, this authority is not inclined to interfere with the finding of the Forum.

15. In the light of the above said discussion, I do not find any merits in the appeal preferred by the appellant and the same is liable to be dismissed.

16. In the result, the appeal is dismissed.

This order is corrected and signed on this day of 22<sup>nd</sup> February 2013

**Sd/-**  
**VIDYUT OMBUDSMAN**