



VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA
First Floor, 33/11 kV substation, Hyderabad Boats Club Lane,
Lumbini Park, Hyderabad – 500 063

:: Present:: Sri. NAGARAJ NARAM

Monday the Sixth Day of September 2021

Appeal No. 26 of 2021
Preferred against order dated 29.10.2020 of CGRF in C G No. 40 /
2020-21 of Hyderabad South Circle

Between

Smt. B. Saritha,
W/o. B. Srinivas Reddy,
Plot No. 82, Sy No.400,
Attapur, Rajendra Nagar,
Hyderabad - 48.
Cell: 9866662288.

... Appellant

AND

1. The AE / OP / Attapur / TSSPDCL / Hyderabad.
2. The ADE / OP / Miralam / TSSPDCL / Hyderabad.
3. The AAO / ERO / Salarjung / TSSPDCL / Hyderabad.
4. The DE / OP / Charminar / TSSPDCL / Hyderabad.
5. The SE / OP / Hyd. South Circle / TSSPDCL / Hyderabad. Respondents

The above appeal filed on 09.12.2020 and having come up for final hearing before the Vidyut Ombudsman for the state of Telangana on 20.03.2021 at Hyderabad in the presence of Sri. B. Srinivas Reddy on behalf of the appellant and Sri. M. Madhu Ranjan, AE /OP / Attapur, Sri. P. Suryaprakash, ADE / OP / Miralam, Sri. Ch. Krishnaiah, AAO / ERO / Salarjung and Sri. MD. Anwar Pasha, DE / OP / Charminar, having considered the record and submissions of both parties, the Vidyut Ombudsman passed the following;

AWARD

This is an appeal against the orders of the CGRF, Hyderabad South Circle in C G No. 40 / 2020-21 dated 29.10.2020.

2. The appellant has stated in the appeal as below.
 - a) The appellant, Smt. B. Saritha, W/o. B. Srinivas Reddy, Plot No.82, Sy No.400, R/o. Attapur is having a commercial building at Attapur section of Mir Alam subdivision in Charminar division. The appellant has installed a panel board and a DTR at the said premises. She has three service connections on her name and 5 Nos. service

connections on her husband's name and one more service connection in the name of Sri. Wazeed Ahmed Siddiqui viz. S3034221, S3000889, S3034222, S3020453, S3008706, S3001593, S3001594, S302037 and S3000678.

b) Out of these connections the service connection No. S3000678 existing in the name of Wazeed Ahmed Siddiqui has been released on 06.06.1998 as per the electricity department records. But the said person that is Wazeed Ahmed Siddiqui has no relation with my premises and he is not the buyer or seller of the said property in the past. The department officials have released a service connection in the name Wazeed Ahmed Siddiqui illegally.

c) The said property has been purchased by Sri. G. Appa Rao from Sri. Hanumanth Reddy on 02.06.1990 and on 07.08.1992 appellant had purchased the same from Sri. G. Appa Rao. Later on appellant had constructed the building at the said premises. A service connection bearing No. S3000678 was released in the said premises on 06.06.1998 in the name of Wazeed Ahmed Siddiqui without appellant's knowledge. The said person is only one of the tenants in the past and used to run a welding shop in the said premises. The electricity officials have filed a theft case on Wazeed Ahmed Siddiqui in the year 2004 and till now they haven't collected any amount from him and moreover appellant hasn't been informed about the theft case being the owner of the said property.

d) In the month of January'2020 when appellant went to the customer service center to transfer the said service connection in her name, the officials told her that she do not have any rights on the said service connection and rejected her application. Later when she contacted DE / Charminar and filed an application under RTI Act, asking for the documents on which are the basis of the said service connection on which it has been released, the DE / Charminar has told me to make an application for dismantlement of the service connection which has been done through the AE / ICSC. Later she had applied for a new service connection on her name with NR No. 90420233230 on 18.01.2020.

e) After a few days, the departmental officials have informed that there was a theft case existing in the name of Wazeed Ahmed Siddiqui in the year 2004 and a new service connection could not be released without paying the penalty of the said theft case.

f) Wazeed Ahmed Siddiqui does not have any right on this property and since he has used the electricity illegally he has to pay the penalty and she does not have any

connection with the theft case and moreover she has not benefited out of the theft of electricity. Hence, she request you to collect the said penalty from himself that is Wazeed Ahmed Siddiqui.

g) Later, when she approached the CGRF for the delay in the release of new service connection on my name, the CGRF failed to look into the facts and based on the false information given by the ADE / Miralam the CGRF rejected my complaint and gave an order to pay the penalty of the theft case believing that she had purchased the property from Wazeed Ahmed Siddiqui.

h) The departmental officials have released the service connection to a person who is not the owner of the premises. She is not even informed about the said theft case on her tenant, even though she is the owner of the property and the said tenant has vacated the premises long back and the departmental officials are now asking me to pay the penalty for the theft case.

i) Hence, she once again confirmed that she does not have any relation with the said service connection S3000678 and the theft case existing on it. Hence, she requested for an order to collect the said penalty from the said Wazeed Ahmed Siddiqui who has benefited from the theft of electricity and further she requested for dismantling the service connection in the name of Wazeed Ahmed Siddiqui existing in her premises and release a new service connection in her name.

2. The respondent licensee filed a reply to the representation and stated thus vide Lr. No. 1609 / 2020 dated 03.02.2021 and 06.02.2021 as follows:

a) A theft of energy case was booked for service connection No. S3000678 (Sri. Wazeed Ahmed Siddiqui) on 20.03.2004 for Rs 2,05,634/- and a final assessment order was issued for Rs 1,34,858/- + Rs 150 supervision charges + Rs 50/- reconnection charges totalling to Rs 1,35,058/- on 11.04.2005 vide DAT No. 36893 D. No. 396 is pending, due to which new service connection was not released.

b) Smt. B. Saritha, W/o. B. Srinivas Reddy approached CGRF on the above issue and the CGRF issued the orders as follows:-

“ The seller of the property should clear all the dues to the company before selling such property. If the seller did not clear the dues as mentioned above, the company may refuse to supply electricity to the premises through the already existing connection or refuse to give a new connection to the premises till all dues to the company are cleared.

In view of the above said clause clearly says that the Licensee through the respondents may refuse to give a new connection to the premises till all the dues are cleared by the consumer. The consumer has clearly admitted in their complaint that the tenant has taken supply in his name and used the supply through SC No. S3000678 since long back. The contention of the respondents that the consumer is not entitled for new service connection until clear the dues on SC No. S3000678 for Rs 1,34,858/- is correct.

Hence, Forum agreed with the contention of the respondents and the consumer is liable to pay the dues against the service connection No. S3000678. The respondents are directed to release new commercial service connection to the consumer within 15 days after clearing the dues against the SC No. S3000678 and dismantle the service connection bearing No. S3000678 as per the departmental rules in vogue.

In the result the grievance complaint dt.12.08.2020 filed by the complainant is hereby rejected.” complaint is disposed of accordingly.”

c) In view of the above, it is once again submitted that the consumer is not entitled for new service connection until all the dues are cleared. On 17.03.2021 the ADE / Op / Miralam filed a reply reiterating the above contentions.

3. The short issue having heard the appellant and the officers of the licensee is that the consumer entitled any relief as sought by her.

4. The appellant has filed the present appeal seeking directions to the respondents for release of new service connection which was rejected by the respondents and to dismantle service connection No. S3000678 in the name of Sri. Wazeed Ahmed Siddiqui. It is her case that she filed two applications in the ICSC (Integrated Customer Service Center) Salarjung Road, one is to dismantle the SC No. S3000678, category III, registered in the name of Wazeed Ahmed Siddiqui at H. No. 4-6-6 / 1 / 7, Attapur, existing in the premises of the appellant vide reference number 904201899955 dated 17.01.2020 and on the next day that is on 18.01.2020, she applied for release of new service connection under commercial category for 5 KW vide registration No. 90420233230. On scrutiny of the first application that is for the dismantlement of the service connection S3000678, the ERO City III records revealed that a theft case was pending against the subject service connection on which was

registered on 20.03.2004, with an initial assessment amount of Rs 2,05,634/-. That the said proceeding were subsequently concluded by revising the assessment to Rs 1,34,858/- + Rs 150/- supervision charges + Rs 50/- reconnection charges = Rs 1,35,058/- vide final assessment orders DAT / 36893 / D. No. 396 dated 11.04.2005. In view of the non payment of above said amount towards theft case the application for new commercial service connection was rejected for want of payment.

5. The subject premises is a G+3 floors commercial complex namely “west face” commercial complex. All together there are 9 Number services available in the premises as stated below:-

Sl. No	Service No	Name	Date of release of supply
1.	S3020453	B. Srinivas Reddy	19.08.2011
2.	S3034221	B. Sarita	03.04.2018
3.	S3008706	B. Srinivas Reddy	16.11.2005
4.	S3001593	B. Srinivas Reddy	19.12.2000
5.	S3001594	B. Srinivas Reddy	09.12.2000
6.	S3000889	B. Sarita	06.12.1999
7.	S3034222	B. Sarita	03.04.2018
8.	S3020377	B. Srinivas Reddy	26.08.2011
9.	S3000678	Wazeed Ahmed Siddiqui	06.06.1998

6. The appellant opposed payment of the theft case amount stating that appellant is in no way concerned with the service connection SC No. S3000678. This service connection in the name of Wazeed Ahmed Siddiqui, tenant of the appellant was released by the respondents without their permission on 06.06.1998 without even following the basic necessity of obtaining the indemnity from the owner. Presently the said Wazeed Ahemd Siddique is not their tenant. The appellant alleged that it is injustice to demand the theft case amount of 2004 now in the year 2020. In so many years the respondents have failed to recover the theft case amount from their tenant, and that they have not utilised the power supply from the disputed service connection. The present demand is unjustified and hence requested to recover the amount from Wazeed Ahmed Siddiqui and release the new commercial service connection to them.

7. On examination of the material available on record the CGRF finding that the new commercial service shall be released only after payment of the dues pending of

Rs. 1,34,858/- against the service connection No. S3000678, is based on the GTCS clause 8.4 reproduced here under:-

“The seller of the property should clear all the dues to the Company before selling such property. If the seller did not clear the dues as mentioned above, the Company may refuse to supply electricity to the premises through the already existing connection or refuse to give a new connection to the premises till all dues to the Company are cleared.”

From the facts and circumstances noticed above, the above case neither involves sale of property nor it was on new purchase that the present connection is being sought. Moreover, the request to release the supply has been tagged to a connection which was nether released with the consent of the consumer nor it has been shown that the consumer has allowed such a release of power supply to be made.

8. The reliance placed by the respondents on the clause 8.4 mentioned above and contending that the appellant is liable to pay the dues of SC No. S3000678 in order to release new commercial service connection in the appellant premises and further contending that they have rightly rejected the application for new connection is contrary to the facts and circumstances in the instant case. As observed earlier, the premises was neither sold nor purchased by the appellant as she herself owned it after purchase in 1992 in view of the fact that the officers of the licensee have not shown any evidence to claim that the appellant has purchased or secured the same by adverse position afresh, this clause of GTCS cannot be invoked.

9. Alas, the officers of the licensee have scant respect to the law and provisions under they are supposed to work. The service connection on which the alleged case has been lodged is released in 1998. By that time the appellant was the owner of the premises. Nothing is placed on record to show that the officers have acted in accordance with law as at that it was in force for release somebody's name when the premises is not owned such a person. It is even more surprising that the theft case is initiated against occupant of the premises and the same is not informed to the owner immediately. Further, when the owner seeks supply and new connection, they dig out the old case which they have not concluded and fasten it owner. This shows the height of irresponsibility and laxity of the personnel on the field in giving effect to the

provisions of the Act, 2003, rules and regulations thereof including but not limited to the GTCS.

10. There is another interesting aspect to the whole case. After the theft case is initiated and the final order on the notice is passed later by the competent authority, it was not even served on the person who indulged in it or on the owner. They have not made any efforts to recover the amounts. On the contrary, service connections in the name of appellant and her husband who appeared for hearing have been released conveniently in the years 2005, 2011 and 2018. But when supply is requested in 2020, suddenly things become crystal clear that the supply cannot be released unless the amounts towards theft case are recovered. This nothing short of dragging their feet backwards for their own omissions and commissions perpetrated against consumer and the company as such.

11. This authority is flummoxed that the officers of the licensee callously treated the issue which is small one which could have been settled at their level and would have arrived at a satisfactory solution. But they pushed the consumer to the brink and it was consumer bargaining that she is ready to part with some amount so that the new connection gets released and the unwanted connection gets dismantled. Though this authority also proposed some amicable settlement at the time of hearing, as such this authority is not inclined to pursue that said angle for the reason the facts on record bear out a different picture.

12. Last but not the least, sec 56 (2) of the Act, 2003 has to be invoked in this case as the officers of the licensee failed to give effect to the provisions thereof by claiming the amount in the monthly bill ever from 2005 to 2020. Therefore, the said amount cannot be claimed by the licensee at this belated stage. This authority is fortified by a judgment of the Hon'ble Supreme Court in the matter of Assistant Engineer (D1), Ajmer Vidyut Vitran Nigam Limited and Another vs Rahamatullah Khan alias Rahamjulla. It has been observed as below by the Hon'ble Supreme Court.

“7. The next issue is as to whether the period of limitation of two years provided by Section 56 (2) of the Act, would be applicable to an additional or supplementary demand.

7.1 Prior to the coming into force of the Electricity Act, 2003, the Indian Electricity Act, 1910 governed the law pertaining to the use and supply

of electricity in India. Section 24 of the Indian Electricity Act, 1910 read as follows :—

“24. Discontinuance of supply to consumer neglecting to pay charge. (1) Where any person neglects to pay any charge for energy or any sum, other than a charge for energy, due from him to a licensee in respect of the supply of energy to him, the licensee may, after giving not less than seven clear days’ notice in writing to such person and without prejudice to his right to recover such charge or other sum by suit, cut off the supply and for that purpose cut or disconnect any electric supply-line or other works being the property of the licensee, through which energy may be supplied, and may discontinue the supply until such charge or other sum, together with all expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer. (2) Where any difference or dispute which by or under this Act is required to be determined by an Electrical Inspector, has been referred to the Inspector before notice as aforesaid has been given by the licensee, the licensee shall not exercise the powers conferred by this section until the Inspector has given his decision: Provided that the prohibition contained in this subsection shall not apply in any case in which the licensee has made a request in writing to the consumer for a deposit with the Electrical Inspector of the amount of the licensee’s charges or other sums in dispute or for the deposit of the licensee’s further charges for energy as they accrue, and the consumer has failed to comply with such request.”

The Standing Committee of Energy in its Report dated 19.12.2002 submitted to the 13th Lok Sabha, opined that Section 56 of the 2003 Act is based on Section 24 of the 1910 Act.

The Standing Committee further opined that a restriction has been added for recovery of arrears pertaining to the period prior to two years from consumers, unless the arrears have been continuously shown in the bills. Justifying the addition of this restriction, the Ministry of Power submitted that : – 1

6 “It has been considered necessary to provide for such a restriction to protect the consumers from arbitrary billings.”

7.2 In *Swastic Industries v. Maharashtra State Electricity Board*,⁴ this Court while interpreting Section 24 of the Indian Electricity Act, 1910 held that : –

“5. It would, thus, be clear that the right to recover the charges is one part of it and right to discontinue supply of electrical energy to the consumer who neglects to pay charges is another part of it.” (emphasis supplied)

7.3 Sub-section (1) of Section 56 confers a statutory right to the licensee company to disconnect the supply of electricity, if the consumer neglects to pay the electricity dues.

This statutory right is subject to the period of limitation of two years provided by sub-section (2) of Section 56 of the Act.

7.4 The period of limitation of two years would commence from the date on which the electricity charges became “first due” under sub-section (2) of Section 56. This provision restricts the right of the licensee company to disconnect electricity supply due to non-payment of dues by the consumer, unless such sum has been shown continuously to be recoverable as arrears of electricity supplied, in the bills raised for the past period. If the licensee company were to be allowed to disconnect electricity supply after the expiry of the limitation period of two years after the sum became “first due”, it would defeat the object of Section 56 (2).

8. Section 56 (2) however, does not preclude the licensee company from raising a supplementary demand after the expiry of the limitation period of two years. It only restricts the right of the licensee to disconnect electricity supply due to non-payment of dues after the period of limitation of two years has expired, nor does it restrict other modes of recovery which may be initiated by the licensee company for recovery of a supplementary demand.

9. Applying the aforesaid ratio to the facts of the present case, the licensee company raised an additional demand on 18.03.2014 for the period July, 2009 to September, 2011.

The licensee company discovered the mistake of billing under the wrong Tariff Code on 18.03.2014. The limitation period of two years under Section 56 (2) had by then already expired.

Section 56 (2) did not preclude the licensee company from raising an additional or supplementary demand after the expiry of the limitation period under Section 56 (2) in the case of a mistake or bona fide error. It did not however, empower the licensee company to take recourse to the coercive measure of disconnection of electricity supply, for recovery of the additional demand.

As per Section 17 (1) (c) of the Limitation Act, 1963, in case of a mistake, the limitation period begins to run from the date when the mistake is discovered for the first time. In *Mahabir Kishore and Ors. v. State of Madhya Pradesh*, 5 this Court held that :-

“Section 17(1)(c) of the Limitation Act, 1963, provides that in the case of a suit for relief on the ground of mistake, the period of limitation does not begin to run until the plaintiff had discovered the mistake or could with reasonable diligence, have discovered it. In a case where payment has been made under a mistake of law as contrasted with a mistake of fact, generally the mistake become known to the party only when a court makes a declaration as to the invalidity of the law. Though a party could, with reasonable diligence, discover a mistake of fact even before a court makes a pronouncement, it is seldom that a person can, even with reasonable diligence, discover a mistake of law before a judgment adjudging the validity of the law.” (emphasis supplied)

In the present case, the period of limitation would commence from the date of discovery of the mistake i.e. 18.03.2014. The licensee company may take recourse to any remedy available in law for recovery of the additional demand, but is barred from taking recourse to disconnection of supply of electricity under sub-section (2) of Section 56 of the Act.

10. We extend our appreciation to Mr. Devashish Bharuka, Advocate who has very ably assisted this Court as *Amicus Curiae*. The present Civil Appeals are accordingly disposed of in the aforesaid terms.”

The above said judgment would make it clear that the licensee may be at liberty to recover the amount, but it is clear that instant facts and circumstances would any way

fit into this judgment of the Hon'ble Supreme Court and thus squarely the licensee has no case to recover any amount much less under sec 56 of the Act, 2003.

13. This authority is therefore of the view that the CGRF has grossly erred in coming to the conclusion that the appellant is liable to pay the amount for release of supply and dismantling of the connection not required by the appellant. Accordingly, the respondents are directed to release the requested supply forthwith without any further delay and dismantle the supply not required by the appellant immediately. The time period fixed for this purpose is 7 working days from the date of receipt of this order. Within 10 days a report of compliance shall be filed without fail with this authority.

14. Needless to say that the company is at liberty to take remedial action in its working as also taking actions for lapses if any by the erring personnel if found appropriate in the year 1998 and 2004 - 2005.

TYPED BY office executive cum computer operator, corrected, signed and pronounced by me on this the 6th day of September, 2021.

Sd/-

VIDYUT OMBUDSMAN (FAC)

To,

1. Smt. B. Saritha,
W/o. B. Srinivas Reddy,
Plot No. 82, Sy No.400, Attapur,
Rajendra Nagar, Hyderabad - 48. Cell: 9866662288.

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6. The SE / OP / Hyd. South Circle / TSSPDCL / Hyderabad.

Copy to :

7. The Chairperson, CGRF-GHA, TSSPDCL, GTS Colony, Vengal Rao Nagar, Hyd.