

**BEFORE THE VIDYUT OMBUDSMAN**

**::Present::**

**C.Ramakrishna**

**Date: 14-03-2014**

**Appeal No. 100 of 2013**

**Between**

Sri. T.N. Singh,  
S/o. Late Jeevan Singh,  
13<sup>th</sup> Division,  
Near Head Post Office,  
ELURU - 534 001.

**...Appellant**

**And**

1. The Assistant Engineer, Operation, APEPDCL, D1, South, One Town, Near Gopal Krishna Theater, Eluru. W.G. Dist.
2. The Assistant Divisional Engineer, Operation, APEPDCL, Town, Eluru, W.G. Dist.
3. The Divisional Engineer, Operation, APEPDCL, Eluru. W.G. Dist.

**...Respondents**

The above appeal filed on 10-09-2013 has come up for final hearing before the Vidyut Ombudsman on 05-03-2014 at Eluru. The appellant as well as respondents 1 to 3 above were present. Having considered the appeal, the written and oral submissions made by the appellant and the respondents, the Vidyut Ombudsman passed the following:

**AWARD**

2. The appeal arose out of the grievance of the appellant that the respondents have released a service connection in favour of an illegal occupant of his land and that the CGRF too dismissed his complaint by saying that his request for disconnection of the service already released in favour of the occupant is not possible.

3. The appellant in his appeal stated that he made a representation to the Call Center, Eluru stating that one Ande Durga Devi had applied for new service connection on the basis of enjoyment certificate for his site; that on receipt of the complaint, the respondent A.E asked him to supply the required documents and that he had accordingly submitted all the documents; that the respondent A.E took back the electrical meter and again after two days he restored the service connection along with the meter; that on his complaint to the CGRF, Visakhapatnam, the CGRF had passed an order on 29-07-2013 saying that his request for disconnection is rejected; that as per the information obtained by him under the RTI Act, he came to know that the following five documents were collected from Smt. Ande Durga Devi by the respondent AE for release of service connection:

- Allotment certificate (patta) issued by the Tahsildar, Eluru
- Valid Municipal license for running commercial establishment in T.S. No. 575
- Indemnity bond
- Wiring commencement and completion report
- ID proof

4. The appellant submitted that actually there is no patta issued by the Tahsildar, Eluru in favour of Smt. Ande Durga Devi; that the said Ande Durga Devi had obtained the 'enjoyment certificate' by stage managing the Tahsildar, Eluru; that the room shown to the respondent AE for obtaining the new service connection is T.S.No:571/1 which belongs to him; thpat the said site (photographs of which were enclosed to the appeal) is not in T.S.No.575; that the Mucipal Licence issued is only for selling Idly on cart; that as some persons are trying to occupy his site he approached the Hon'ble AP High Court in W.P. No. 11239/2011 and obtained an interim order against the District Collector, West Godavari District and the RDO and the Tahsildar of Eluru not to interfere with the peaceful possession by him of his site and that the same W.P is still pending disposal in the AP High Court; that the respondent AE failed in his duty to verify whether or not the T.S.No. mentioned against the premises is correct; that the respondent AE had failed to know and has released the service connection in T.S.No.571/1 while the papers produced to him by the applicant are showing T.S.No.575; that the 'enjoyment certificate' produced identifies the site as T.S.No.571/1 in some places while showing it as T.S.No.575 in some other places and that the boundaries shown in it are also not in conformity with the ground realities; and that the Tahsildar should not have given an enjoyment certificate for 7 Sq. Yds. for 'residential purpose'. While enclosing a copy of the Hon'ble A.P. High Court's order in W.P.M.P. No.25546 of 2009 in W.P. No. 19567 of 2009 along with a host of other documents, he prayed for ordering the disconnection of the service released in favour of Smt. Ande Durga Devi.

5. A notice was issued for hearing on 05-03-2014 at Eluru enclosing copies of the appeal and the respondents were directed to submit their written submissions duly serving a copy of the same on the appellant.

6. The respondent officers submitted their written submissions stating that the appellant is not a consumer of APEPDCL; that the appellant made a complaint before the CGRF, Visakhapatnam for disconnection of service released in T.S.No. 571/1; that the service connection in question was released on 23.04.2013 in favour of Smt. Ande Durga Devi in T.S.No. 575 near Peruguchettu centre as per the enjoyment certificate issued by the MRO and after collecting Indemnity Bond and 2 years deposit as per rules; that the appellant also was advised to produce a confirmation certificate from the Tahsildar regarding survey numbers in dispute but that he has not produced the same; that the service was released only after taking an undertaking from Smt. Ande Durga Devi for disconnection of service if the Court Case or Tahsildar's order is given in favour of the appellant herein; that the dispute in question is a civil dispute; that the appellant had been advised to approach the Tahsildar or Police who are competent to remove the shed after verification of documents produced by him and that such removal of the shed will automatically result in disconnection of service also.

7. The CGRF in its order dated 26-07-2013 had relied on the fact that there are quite a few cases pending before the various courts regarding the dispute between the appellant and the Smt. Ande Durga Devi and came to a conclusion that it is purely a legal matter which can be settled by courts. Further it felt that the 'enjoyment certificate' issued by the MRO in favour of Smt. Ande Durga Devi is sufficient enough for a service connection to be released in her favour and has accordingly refused to intervene in the matter and dismissed the complaint of the appellant herein saying that the disconnection of the service sought for is not possible.

8. During the hearing on 05-03-2014, the appellant reiterated the contentions raised by him in his written appeal and the respondents also reiterated their written submissions. The appellant filed copies of two more documents -- one of which is a copy of the Revenue map showing that T.S. Nos 575 and 571 are located far away from each other, the other is a document showing Municipal receipts showing that Smt. Durga Devi possesses a licence for selling tiffins on a cart at T.S.No. 575. The copies of these two documents were got served on the respondents at the time of hearing. The respondents did not marshal any other fresh or new material in support of their contentions.

9. Before going into the merits of the case, the very first statement of the respondents that the appellant herein is not a 'consumer' is taken note of to decide whether or not the present appeal by the appellant is maintainable before this authority. As per the APERC (Establishment of Forum and Vidyut Ombudsman for redressal of grievances of the consumers) Regulation (Regulation 1 of 2004), an appeal before this authority can only be filed by a consumer who is aggrieved of the order given by the CGRF. As stated in the said regulation, a consumer is one who is defined as such in the Electricity Act, 2003.

10. Sub section 15 of section 2 of the Electricity Act 2003 defines 'consumer' as any person who is supplied with electricity for his own use or whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee.

11. Clause 6 of the APERC (Establishment of Forum and Vidyut Ombudsman for redressal of grievances of the consumers) Regulation (Regulation 1 of 2004), provides for the 'complainant' who is aggrieved with the order of the CGRF to

approach the Vidyut Ombudsman in appeal. Sub clause 8 of clause 5 of the same regulation establishes that the 'complainant' and the 'consumer' are synonymous.

12. By virtue of the above observations, it becomes clear that it is only a 'consumer' as defined in the Electricity Act 2003, that can approach the Vidyut Ombudsman in appeal. In addition to a 'consumer,' a person who intends to become a 'consumer' or who has 'applied' to become one, also are eligible to approach the CGRF or the Vidyut Ombudsman for redressal of their grievances. But a person, who is not even a consumer in the first place, can not approach the CGRF or the Vidyut Ombudsman for redressal of his grievance. On this count, the appeal by the appellant herein is not maintainable.

13. Now let us see the position of Smt. Ande Durga Devi, the person who is complained against by the appellant herein as having been supplied with a service connection illegally on his site. In the light of an application made by her, there is no way the respondent officers could have denied her a service connection on account of the title dispute between her and the appellant herein, as the provisions of various clauses explained below make it clear.

14. Clause 5.1 of the GTCS enjoins on the DISCOM to supply electricity on an application made by the 'owner' or 'occupier' of any premises, subject to the applicant showing compliance to the procedure prescribed in the GTCS. So, being an 'occupier' of the premises in question, Smt. Ande Durga Devi clearly became an applicant for a service connection.

15. Clause 5.2.2 of the GTCS says that the DISCOM shall verify the application and enclosed documents. This clause mandates that the respondent officers shall release a service only on verification of the documents produced along with the application.

16. Clause 2(c) of the Andhra Pradesh Electricity Regulatory Commission (Licensee's duty for supply of electricity on request) Regulation, 2013 (Regulation 4 of 2013) says that an "Applicant" means the 'owner' or 'occupier' of any premises who makes an application to the distribution licensee for supply, of electricity. The definition of "Applicant" is the same even in the repealed regulation i.e., Regulation 3 of 2004, which actually applies to the present case as the issue relates to a period which is prior to the applicable date of Regulation 4 of 2013. Clause 5.2.3 of the GTCS provides for obtaining an Indemnity Bond from the owner of the premises where the occupier applicant for release of service connection is not the owner of the premises. In case the occupier applicant fails to provide such Indemnity Bond from the owner of the premises, she shall be required to pay three times the normal security deposit apart from providing proof of her being in 'lawful occupation' of the premises. As there is an ongoing title dispute between the appellant herein and Smt. Ande Durga Devi, the question of her producing an Indemnity Bond from the 'owner' of the premises does not arise; but being the claimant owner / occupier, she could be released a service connection on paying three times the normal security deposit apart from providing proof of her being in 'lawful occupation' of the premises. In the instant case, it is this part which is highly questionable. The certificate issued by the MRO (a copy of which was produced by the appellant herein and confirmed by the respondents as having been the same based on which the respondent AE released the service connection to Smt. Ande Durga Devi), has two major lacunae on the face of it. One is that the

certificate starts by mentioning the land as T.S. No: 571/1, but down below in the “Details” section, it mentions the same as T.S. No. 575. This is a clear case of mistake apparent on the face of the record and the only person who can clarify whether or not the certificate belongs to T.S. No. 571/1 or T.S.No. 575 is the issuer of the certificate viz., the MRO. Secondly, the terms and conditions subject to which the said certificate was issued clearly state that it was issued only for the purpose of the beneficiary therein claiming housing loan / subsidy from the AP Housing Board and cannot be used for any other purpose. Because of this, it could hardly be said to establish the ‘lawful occupation’ by Smt. Ande Durga Devi.

17. Clause 5.2.5 of the GTCS says that it shall not be incumbent upon the DISCOM to ascertain the legality or adequacy of licence or sanction obtained by the consumer. Based on this, the respondent officers ought to have desisted from appearing to decide the title in favour of Smt. Ande Durga Devi by releasing the service connection applied for by her.

18. Clause 5.2.6 lays down that the consumer shall obtain the necessary licence or permission or no-objection certificate from the local authority or any other competent authority as might be required under the statute. As the ‘certificate’ produced by Smt. Ande Durga Devi contained mistakes apparent from the face of the record, the respondent officers ought to have sought clarification from the issuer of the certificate, i.e., the MRO in this case to clarify as to the claim of Smt. Ande Durga Devi in regard to the possession of the land / site being shown as requiring service connection.

19. In the light of the discussion about the certificates herein above, it is surprising as to how the respondent AE came to the conclusion that it is a



certificate which makes Smt. Ande Durga Devi an eligible applicant for service connection. The said certificate was issued on 18.11.2011, while the CGRF in its order mentions a pending Writ Petition relating to the year 2009. Even the appellant herein produced copies of Hon'ble AP High Court's orders issued in the year 2009. The copy of the town map produced by the appellant herein at the time of hearing appears to establish his contention that TS 575 and TS 571 are physically located far apart from each other and hence it is not possible to mistake one for the other on the ground. The Municipal receipts also establish that Smt. Ande Durga Devi appears to be holding a licence for selling tiffins on a cart at T.S. No:575. That being the case, it is not clear as to how the respondent AE came to the conclusion that Smt. Ande Durga Devi is an eligible applicant, that by obtaining an Indemnity Bond or some other undertaking, it is quite alright to release the service connection in her favour when there is an ongoing dispute between the appellant herein and her, the dispute having originated at least two years before the said certificate was issued. The prudent course of action that should have been adopted in such circumstances was for the respondent officers to wait out the final outcome of the title dispute before releasing a service connection in any one's favour. Or the best they could have done was to probe deeper into the documents before release of the service connection, so that they could justify their stance. This was not done.

20. In the light of the above discussion, it is hereby ordered that:

- the appellant herein is not entitled to be called an 'appellant' or a 'complainant' before this forum or the CGRF and hence this appeal or complaint before the CGRF are not maintainable;
- however, in view of the respondent officers' failure to thoroughly scrutinize the application and the documents submitted by Smt. Ande Durga Devi for

release of service connection in her favour, they shall take necessary steps to disconnect / dismantle the service connection in question by following the due process of law i.e., by giving her all the opportunity to show cause why the connection cannot be disconnected and giving her ample opportunity to prove the veracity / genuineness of the documents produced by her and / or make good the deficiencies noticed herein above.

21. The appeal is dismissed accordingly. In the circumstances, there is no order as to costs / compensation.

22. This order is corrected and signed on this 14<sup>th</sup> day of March, 2014.

## **VIDYUT OMBUDSMAN**

To

1. Sri. T.N. Singh, S/o. Late Jeevan Singh, 13th Division, Near Head Post Office, ELURU - 534 001.
2. The Assistant Engineer, Operation, APEPDCL, D1, South, One Town, Near Gopal Krishna Theater, Eluru. W.G. Dist.
3. The Assistant Divisional Engineer, Operation, APEPDCL, Town, Eluru, W.G. Dist.
4. The Divisional Engineer, Operation, APEPDCL, Eluru. W.G. Dist.

Copy to:

1. The Chairperson, CGRF, APEDCL, 3rd Floor, New Building, Corporate Office, P&T Colony, Seethammadhara, Visakhapatnam - 530 013.
2. The Secretary, APERC, 11-4-660, 5th Floor, Singareni Bhavan, Red Hills, Hyderabad-04.

