

BEFORE THE VIDYUT OMBUDSMAN

::Present::

C.Ramakrishna

Date: 14-05-2014

Appeal No. 106 of 2013

Between

Sri S.V. Ramana

%, Sri Chaitanya Public School

L. Kota Village, L. Kota (M)

Vizianagaram Dt.

... Appellants

And

1. The Assistant Engineer, Operation, L.Kota, Vizianagaram Dt
2. The Assistant Divisional Engineer, Operation, S. Kota, Vizianagaram Dt
3. The Divisional Engineer, Operation, Vizianagaram, Vidyut Bhavan,
Dasannapeta, Vizianagaram - 535 002

... Respondents

The above appeal filed on 17-10-2013 has come up for final hearing before the Vidyut Ombudsman on 03-05-2014 at Vizianagaram. 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 CGRF had dismissed his complaint holding that the case booked by the DPE wing is in order.

3. On 17-10-2013, the appellant filed the appeal stating that he possesses approximately 5 acres of agricultural land; that in that land he dug a borewell in the year 1996; that in the year 2005, he shifted the school that is being run by him in the village to about 65 cents of his agricultural land; that they are using separate electrical connections to avail water from the same borewell; that on 25-06-2013, Sri Chandramouli inspected the service connections and levelled an allegation that he is using the agricultural connection for school purposes; that on explaining to him properly that the submersible pump (used for agricultural purpose) and jet pump (used for school purpose) are being used to draw water from the same borewell, he was satisfied with the explanation; that subsequently, with a dishonest intention, he made them sign on some blank papers and filled them up to suit his needs to book a malpractice case against him; that Sri. Chandramouli did not inform him of any wrongdoing while he was on inspection; and that in spite of complaining to the CGRF and other senior officers to enquire whether he was indulging in malpractice, the said officers came to the conclusion that he is indulging in malpractice by merely deducing the same from the increase in bills.

4. The respondents were served with a notice for hearing the case, directing them to submit their written submissions, if any, duly serving

copies of the same on the appellant. The respondent DE submitted a written submission on 26-04-2014 stating that the DPE wing inspected the agricultural service and the LT II service of the consumer appellant on 26-04-2013 and booked a malpractice case as the service was being utilized for a purpose different from the one for which it was sanctioned; that the ADE, S.Kota issued provisional assessment order to the consumer u/s 126 of the Electricity Act on 09-05-2013; that the respondent AE disconnected the agricultural service on 24-05-2013 as he has not paid the provisional assessment amount; that the respondent AE inspected the service connections on 22-08-2013 and found that the consumer has fixed one motor for agricultural purpose and one motor for school purpose in a single open well; and that the respondent AE also observed that the consumption pattern of commercial service after the DPE inspection has gone up. The respondent DE also enclosed a copy of the consumption pattern of the commercial service of the consumer.

5. The appellant wrote a letter to the respondent DE on 28.4.2014, duly marking a copy to this authority, in which he explained among other things the reasons for the increased consumption for his commercial connection. The reasons mentioned therein are that in the months of April and May the consumption would be less; that the school was run in the village till 2006 till which time the school's student strength was about 200 only; that the strength got increased over time gradually; that from the year 2013-14, the strength is about 450 to 500; that in view of the increased strength they have constructed extra class rooms and also provided fans for every classroom; that from the year 2013-14, they have gone in for a mini projector and 8 computers for computer education; and that after the agricultural connection is disconnected, they have been supplying water to their banana plantation water from the

school motors only and that the other fields which are located far away have not been supplied with water.

6. Heard the appeal finally at Vizianagaram on 03-05-2014. At the time of hearing, the appellant as well as the respondents have reiterated their written submissions. The respondents produced a copy of the report of the inspection done on 08-04-2013 (not 26-04-2013 as stated by the respondent DE in his written submission). The appellant appeared for the hearing along with his brother (Mr. Sanyasi Rao) who was made to sign on the inspection report by the inspecting officer. The appellant stated that at the time of inspection, it was explained (by his brother) to the inspecting officer that the two service connections for different and separate purposes are being used to draw water through two separate and distinct motors and service connections and that there is no wrongdoing on his part; that the inspecting officer appeared to be not deriving any adverse conclusions at that time, but made him sign on some blank papers; that he came to know that the inspecting officer did in fact derive adverse conclusion only after seeing the huge demand for Rs. 63,191/-; that on seeing such huge demand, as he refused to pay the same, the respondent officers have disconnected the agricultural supply; that the consumption from his commercial service has gone subsequent to the disconnection only because he was using that for agricultural purpose too; and that he was never served any inspection report consequent to the inspection.

7. The inspecting officer of the DPE wing as well as the respondent officers appear to have gone overboard while inspecting the case and also subsequently. First of all, without establishing in a proper and legal manner their charge of the consumer indulging in unauthorized use of electricity, they

have gone ahead and raised an exorbitant demand and also disconnected the service for non-payment of the exorbitant demand. At the time of inspection, the inspecting officer ought to have given clear finding of facts of the existing situation. His observation "At the time of inspection consumer utilizing power supply from Cat V, Agricultural supply water motor to School water tanks and water usage purpose. Which is other than sanctioned one commercial usage. Hence malpractice case is booked." does not reveal facts fully the way an inspection is supposed to reveal. Did he or did he not find two different motors there? Did he or did he not find any labyrinth of pipes that are connected from the motor of the agricultural connection to the school water tanks? These crucial facts are missing from the inspection report. That too, there is no record of the consumer having been served the inspection report. Principles of natural justice demand that the person who is being charged with some wrongdoing is served with copies of the charges / material based on which adverse findings are drawn against him. This was not done in the present case. The inspection report is found to be far from satisfactory. No principles of natural justice were followed before demanding exorbitant amounts towards unauthorized usage of electricity. No final order consequent to the provisional assessment appears to have been made so far. This is a requirement as per clause 9.4.3 of the General Terms and Conditions of Service.

8. The CGRF noted in its order that the case booked by the DPE wing is in order. This authority fails to understand as to how it has come to such a conclusion without even giving an opportunity of being heard to the complainant. There is no record of it having given an opportunity to the complainant. The inspection report prepared by the officer of the DPE wing is far from satisfactory inasmuch as the prescribed procedure as per clause

9.1.2 of the GTCS was not followed by the inspecting officer. Let us look at an extract of clause 9.1.2 below:

The Inspecting Officer shall record the observations made at the time of inspection by preparing the Inspection Report as per the format prescribed in Appendix IV A for LT consumers or Appendix IV B for HT consumers, as the case may be and serve a copy of the same to the consumer at the end of the inspection. The Inspecting Officer shall send a copy of such Inspection Report by the next working day to the Assessing Officer for preparation of the Provisional Assessment order for cases of Unauthorised Use of Electricity.

9. As per this clause, the inspecting officer ought to have served a copy of the inspection report on the consumer right at the end of the inspection. In the present case, while the inspection was done on 04-04-2013, the inspection report itself was prepared on 08-04-2013. This supports the argument advanced by the appellant herein that he was made to sign on some blank formats. This being the case, the second part of the clause also was not complied with in as much as the inspecting officer had not sent the inspection report by the next working day to the Assessing Officer for preparation of the Provisional Assessment Order. Keeping such illegalities on their side, the respondent officers cannot claim that it is a case of inspection of unauthorized usage of electricity and that it cannot be interfered with. The CGRF also miserably failed to give a finding on these aspects before holding that the case

booked by the DPE wing is in order. Such an illegal operation cannot be called an inspection; nor is it any order.

10. The principles of natural justice that could have been followed, had the inspecting officer stuck to the procedure laid down therein, have not been followed. The inspection was not done in accordance with law. Hence it is liable to be set aside. If it had been a properly done inspection, this authority would not have hesitated to stay away from interfering with the process. But that is not the case.

11. None of the factual statements made by the appellant herein are contested by the respondent officers. The respondent officers merely reiterated that it is a case of inspection for unauthorized use made by the DPE wing. They appear to be in awe of the DPE wing. That the inspection report prepared by the DPE wing is a concoction of the then inspecting officer is evident on record. The respondents' contention that the consumption of the commercial service of the consumer has gone up by 5 times shows that he was misusing the agricultural connection for his school purposes is nothing but perverse logic. Having disconnected his agricultural service, what are the respondent officers expecting the appellant to do? It is but natural that the appellant had used the same connection to supply water even to his agriculture fields, as stated by him during the hearings and also in his letter dated 28.4.2014. In the process, his LT commercial consumption automatically has gone up. This does not require any science or complicated logic to understand. First of all, an illegal inspection is perpetrated on the consumer; on top of it, a skewed logic is shown to say that the inspection is correct because the consumption of the commercial service has gone up.

12. Therefore, it is hereby ordered that:

- the illegal inspection done by the DPE wing on 04-04-2013, is not an inspection at all and is set aside;
- when the inspection itself is illegal, there is no question of charging the consumer appellant herein with unauthorized usage of electricity;
- the provisional assessment order and the demand served on the consumer consequent to the illegal inspection also are set aside;
- the agricultural service of the consumer appellant herein shall be restored forthwith;
- the SE/Assessments, Visakhapatnam, to whom a copy of this order is marked, shall ensure that the illegal Assessment work in progress / pending with his wing shall be closed with immediate effect; and
- the respondent officers shall comply with this order within 15 days from the date of receipt of this order and shall report compliance within 15 days from thereafter.

13. This order is corrected and signed on this 14th day of May, 2014.

VIDYUT OMBUDSMAN

To

1. Sri S.V. Ramana, %, Sri Chaitanya Public School, L. Kota Village, L. Kota (M), Vizianagaram Dt.

2. The Assistant Engineer, Operation, L.Kota, Vizianagaram Dt
3. The Assistant Divisional Engineer, Operation, S. Kota, Vizianagaram Dt
4. The Divisional Engineer, Operation, Vizianagaram, Vidyut Bhavan,
Dasannapeta, Vizianagaram - 535 002
5. The SE/Assessments, APEPDCL, Corporate Office, Near Gurudwara
Junction, Seetammadhara, Visakhapatnam 530 013

Copy to:

6. The Chairperson, CGRF, APEPDCL, P & T Colony, Seethammadhara, Near
Gurudwara Junction, Visakhapatnam - 530 013.
7. The Secretary, APERC, 11-4-660, 5th Floor, Singareni Bhavan, Red Hills,
Hyderabad - 500 004.