

BEFORE THE VIDYUT OMBUDSMAN

::Present::

C.Ramakrishna

Date: 20-03-2014

Appeal No. 119 of 2013

Between

Sri. Sultan Bin Ibrahim
S/o. Ibrahim Bin Abdullah Masqati,
Thurka Yamzal (Village),
Hayat Nagar Mandal.
R.R. Dist.

... Appellant

And

1. The Assistant Engineer, Operation, Turka Yamzal, APCPDCL, R.R. Dist.
2. The Assistant Divisional Engineer, Operation, Vanastalipuram, APCPDCL, R.R.Dist.
3. The Assistant Accounts Officer, ERO, Champapet, APCPDCL, Hyderabad.

... Respondents

The above appeal filed on 10-12-2013 has come up for final hearing before the Vidyut Ombudsman on 10-03-2014 at Hyderabad. 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

This is an appeal against the orders passed by the CGRF, APCPDCL (Greater Hyderabad Area) in C.G.No.1089/2013-14/Ranga Reddy South Circle, dated 30th September, 2013.

2. The appellant was given 3 agricultural connections bearing Nos. 2214 00047, 2214 00143 and 2214 00715 in the year 1981. He also has a firm that goes by the name of M/s. Masqaati Diary Products Company, which has an HT connection with a CMD of 700 kVA. In March 2011 the DPE wing inspected and booked 3 cases against the appellant -- two for unauthorised use of electricity against two of these agricultural connections ending with numbers 143 and 147 and one case of theft. The appellant contested the assessment before the DE assessment. He approached the CGRF on 19th August 2013. The CGRF disposed of the appeal on 13th September, 2013 holding that the complainant appellant can approach the SE assessments to contest the case as it is a case booked against him under sections 126 and 135 of the Electricity Act, 2013. Aggrieved with the said order of the forum, the appellant filed an appeal before the Vidyut Ombudsman.

3. On 10-12-2013 the appellant filed before this authority an appeal stating that the CGRF has failed to see that the appellant and M/s. Masqaati Diary Products Company are two different entities and consequently the bills that are raised in the name of Sri. Sultan Bin Ibrahim are not the name same as bills on M/s. Masqaati Diary Products Company; that the water from the bore-wells serviced by the 3 agricultural service connections is used for agricultural proposes only and that only a part of the water is mixed with dung before being

sent to agricultural and grass fields; that hence it cannot be said that the water is used for any commercial purposes and that the conversion of the connections from agricultural to commercial and then again to industrial category caused irreparable loss to the appellant; and that the water from the bore well is hard water and cannot be use in any manner for the diary purpose. The appellant prayed for setting aside the final assessment order passed by the DE assessment and for adjusting the amounts that were paid by the appellant towards future bills.

4. On a notice issued for a hearing, all the 3 respondents filed their written submissions. The respondents stated that the consumer is having 3 agricultural connections and that they were converted from LT Category 5 to LT Category 2 on 23-03-2011 consequent to booking of case by DPE wing; that as per the instructions of the DPE wing, energy meters were fixed to the 3 services and bills were issued under commercial category; that after the consumer approached the DE assessment, the category of the connection was changed from LT Category 2 to LT Category 3 and the bills were duly revised accordingly; that all the outgoing pipes of the bore wells are connected together and water from them is first being pumped to the Buffalo shed after which the same water is being fed to the grass fields through gravitational pull; that the consumer has another HT service bearing No RRS 118 in the name of M/s. Masqaati Diary Products Company with a CMD of 700 kVA for Diary plant purpose; that in view of the factual position it should be construed that the consumer is utilising power supply for growing grass and cleaning the Buffalo shed -- an activity which is more closer to diary farming than being an agricultural activity; that hence as per the tariff order 2013-14 approved by the Hon'ble APERC the classification of the 3 connections of the appellant was

done correctly under LT 3.

5. Heard the appeal finally on 10-03-2014. At the time of hearing, it was apparent from the record and material placed before this authority that the appellant is the owner of (or having a controlling stake in) M/s. Masqaati Dairy Products Company. He was given 3 agricultural connections in the year 1980 in his individual capacity. These 3 connections power the pump sets that provide water to about 25 acres of land which is being used primarily for growing grass and paddy. The notable point here is that the dairy milk company of the appellant is located adjacent to this 25 acres. The contention of the appellant that the CGRF failed to see that he and the Company are different and consequently the bills that are raised in the name of the appellant are not the same as bills on M/s Masqaati Dairy Company stands to no logic. There is nothing in the record to show that the CGRF did hold such belief or gave a finding to that effect, in the first place; and even if it did, that has not altered its judgment in the matter. His contention that the water from the three bore wells powered by the three service connections referred to above, is used for agricultural purpose only cannot be looked into in this appeal, as this is a matter of fact pertaining to an inspection done by the DPE wing and is the subject matter of proceedings that were consequently initiated. This can be gone into by the appropriate appellate authority in such matters, which is the SE/Assessments in this case. The contention of the appellant that he has suffered irreparable loss consequent to the conversion of the services from one category to another also is of no relevance to this appeal, more so, as the DPE wing found that the facts are different from what he is claiming and a finality on such fact finding can come about only before the appropriate appellate authority. The contention that the water from the bore wells cannot be used

for diary purposes also cannot be gone into by this authority.

6. When the DPE wing carried out an inspection in the month of March, 2011 it found that there is unauthorised use of electricity in two of the three agricultural connections and it has booked one case of theft against the appellant, which the appellant claims is nothing but the failure on the part of the DPE wing to notice that there in fact is a 3rd service connection. Having carried out the inspection, the DPE wing finalized the assessment holding that 2 of the 3 service connections should be categorized as industrial, while the 3rd connection come to be categorized as LT 3 by the respondent field officers, based on the inspection done by the DPE wing. The appellant contends that the final assessment done by the DE, Assessments needs to be set aside as the activity being carried out there is agriculture. During the course of the hearing he urged that at least the conversion of the third connection i.e., 2214 00715 be kept in abeyance as no proper procedure was followed for the same.

7. It is clear that there was unauthorised use of electricity at the time the DPE wing made the inspection. The appellant's contention that the DPE wing failed to notice that there in fact is a third connection and has incorrectly booked a case of theft also is a contest of the findings of the DPE wing in a malpractice case. Hence these proceedings clearly fall under the purview sections 126 and 135 of the Act. Neither the CGRF nor the Vidyut Ombudsman can interfere in such matters, as there is a clearly laid down alternative mechanism of appeal in such cases and this institution is specifically barred from looking into such matters.

8. Therefore this authority cannot interfere in the assessment proceedings issued by the DPE wing. The appellant herein can seek relief against the findings of the DPE wing only by approaching the SE/Assessment concerned. This authority finds that the order issued by the CGRF is correct and need not be interfered with. The assessment order issued by the DE/Assessments cannot be set aside by this authority and consequently this authority cannot look into or order adjustment of the amounts already paid by the appellant.

9. However, in so far as the action of the respondents in converting the service connection bearing No.221400715 as LT 3 without following the due process as provided for in clause 3.4 of the GTCS, is concerned, its held as incorrect and illegal. Consequently, the conversion of this connection from LT 5 to LT 3 is declared as invalid. The respondents shall treat the connection as LT 5 and refund the excess amount collected, if any, because of this conversion. The respondents herein shall follow the due process as provided for under clause 3.4 of the GTCS, before converting the service connection to the appropriate category.

10. The respondents shall carry out the orders in para 8 above, within 15 days from the date of receipt of this order and submit compliance report within 15 days from there after.

11. The order is disposed of accordingly. In the circumstances, there is no order as to costs / compensation.

This order is corrected and signed on this 20th day of **March, 2014**.

VIDYUT OMBUDSMAN

To

1. 1. Sri. Sultan Bin Ibrahim, S/o. Ibrahim Bin Abdullah Masqati, Thurka
2. Yamzal (Village), Hayat Nagar Mandal, R.R. Dist.
- 3.
1. 2. The Assistant Engineer, Operation, Turka Yamzal, APCPDCL, R.R. Dist.
2. 3. The Assistant Divisional Engineer, Operation, Vanastalipuram,
3. APCPDCL, R.R.Dist.
4. 4. The Assistant Accounts Officer, ERO, Champapet, APCPDCL, Hyderabad.

Copy to:

1. The CGRF, APCPDCL, D.No.8-3-167/R/1, CPTI Premises, GTS Colony, Vengal Rao Nagar Colony, Erragadda, Hyderabad - 45.
2. The Secretary, APERC, 11-4-660, 5th Floor, Singareni Bhawavan, Red Hills, Hyderabad-04.