

**BEFORE THE VIDYUT OMBUDSMAN**

::Present::

**C.Ramakrishna**

Date: 12-03-2014

Appeal No. 65 of 2013

Between

Sri Ch. Venkateswarlu

D.No. 33-10-14, Seetharamapuram Village & Post

Vijayawada, Krishna Dt. 520 002.

**... Appellant**

**And**

1. The Asst. Accounts Officer, ERO, Town 1, APSPDCL, Gopal Reddy road, Beside State Guest House, Vijayawada 520 002.
2. The Asst. Engineer, Operation, APSPDCL, 33/11 kV Substation, Gulam Mohidhin Nagar, Opp. Visalandhra, Chitu gunta, Suryaraopet, Vijayawada 520 004.
3. The Asst. Divisional Engineer, Operation, APSPDCL, C&O, Beside State Guest House, Vijayawada 520 002.
4. The Senior Accounts Officer, Operation, APSPDCL, Opp. Raithu Bazar, Near PWD Ground, Vijayawada 520 002.

**... Respondents**

The above appeal filed on 14-05-2013 has come up for final hearing before the Vidyut Ombudsman on 07-03-2014 at Vijayawada. The appellant as well as respondents 1 to 4 above were present, the 4th respondent being represented by the Accounts Officer, Revenue as the SAO took leave of absence on account of his review meeting with his superior officers at Tirupati. Having considered the appeal, the written and oral submissions made by the appellant and the respondents, the Vidyut Ombudsman passed the following:

**AWARD**

The appeal arose out of the grievance of the appellant that the respondent AAO had not been issuing receipts for the payments made by way of cheque, that dishonoured cheques were not returned to the appellant to enable him to know the fact of dishonour, that the CGRF, Tirupati had not followed the letter and spirit of the regulations framed by the APERC in disposing of his complaint before it in advising him to reconcile with the respondent AAO.

2. On 14-05-2013, the appellant filed this appeal before this authority stating that on 30-01-2013, he made a complaint to the CGRF, Tirupati which was registered as CG No. 325/2012-13/Vijayawada Circle; that the CGRF has disposed it in contravention of the regulations framed by the APERC; that the CGRF has disposed of the complaint without giving an opportunity of personal hearing in spite of specifically requesting for the same; that the CGRF has not ensured service of the written submissions made by the respondents in the complaint to the complainant until asked for; that the CGRF had passed its orders without going through the records maintained by the appellant; that the CGRF in asking the appellant to go before the ERO and reconcile with the respondent AAO is damaging the interests of the consumers; and that there are several other issues which would be put forth during the hearing. Further the appellant requested that the hearing of the Ombudsman be conducted in Vijayawada in view of the appellant's age and health condition (heart patient).

3. A notice for hearing the appeal at Vijayawada on 07-03-2014 was issued directing the respondents to submit their written submissions, if any, duly serving the same on the appellant. The hearing was conducted on 07-03-2014, at Vijayawada as per the request made by the appellant, having due regard to

his advanced age and stated health condition. The respondent AAO submitted his written submissions, albeit with a delayed service on the appellant. The other respondents did not file any written submissions.

4. In his written submissions, the first respondent stated that against SC No. 6424355139666 the arrear of Rs. 183/- that was outstanding since December 2011 has since been cleared by the appellant in the month of January 2013; that in respect of SC No. 6424355139669 payment of Rs. 181/- for the month of December 2011 was received and credited to the account, but that there are arrears pending against the service since the year 2007; and that up to December 2012, the total amounts outstanding against the service are Rs. 979/-. Though the respondent AAO stated in his written submission that account statements in respect of the two service connections are enclosed, they could be verified only during the hearing on 07-03-2014 as they were not enclosed to the written submission sent through post.

5. On 07-03-2014, final hearing was held. The respondent AAO submitted copies of the missing account statements and the appellant produced a rejoinder to the written submissions of the respondents. The rejoinder of the appellant states that the claim made by the respondent AAO in his written submission to the effect that an amount of Rs. 183/- was outstanding in the month of December 2011 against SC No. 6424355139666 is not in order as the same had been paid by the appellant by way of cheque in the month of November 2011 itself; that in respect of SC No. 6424355139669 the fact of the accumulation of arrears has been brought to the notice only now; that payment in respect of SC No. 6424355139669 was also paid by cheques; that if the cheques had bounced, that fact was not intimated by the respondents by

following the due process that is already existing; that as verified from the bank records it was seen that the cheques had been honoured; that the respondent AAO has not been issuing receipts for the payments made through cheques; that even acknowledgment for the cheques received are not being given; and that copy of the written submission of the respondent AAO was served on him only on the evening of 06-03-2014, thus without giving him any time to either submit his rejoinder or come prepared for the scheduled hearing. He finally prayed for orders directing that action be initiated against respondents 1 & 2 for not following section 56 of the Electricity Act 2003; to order refund of the amounts collected by force on 28.01.2013; to direct the respondents to follow the rules and regulations from time to time; to direct the respondent AAO to issue receipts for the cheque payments soon after receipt of payment; and to award costs.

6. The CGRF noted in its order that it is a matter which can be easily sorted out between the appellant and the respondents if a reconciling of the accounts is done and had disposed of the complaint filed before it accordingly.

7. During the hearings, it was apparent that the dispute is mostly about attitudes than anything else. The appellant felt that the respondents have not been functioning up to the standards expected of them, while it was visible from the demeanor and deposition of the respondents that issues which could otherwise easily have been sorted out by mere direct payment of cash are unnecessarily being dragged on by the appellant. During the hearing, the appellant stated that there is no dispute pending now and arrears, if any, outstanding against his SC numbers will be paid without much ado. On their part, the respondents have also submitted that causing trouble to anybody,

least of all the appellant herein was never their intention and that they would take all care to see that such unhappy incidents are avoided to their best ability in future.

8. However, to set matter in their right perspective, it is made clear that the consumer has the right to pay his dues through cheque. Soon after receipt of cheque from the consumer it is the duty of the licensee's officers to issue a receipt, albeit mentioning that the receipt is subject to realization of the cheque. If the cheque is dishonoured, the licensee is duty bound to return the same to the consumer; subject however, to the licensee being entitled to collect the late payment and / or interest charges as are approved in such cases. Non-service of bills, letters, notices etc., for the reason that the consumer refuses to accept them is no good reason. There are various methods available to the licensee's officers to have the bills, letters and demands served. Nothing prevents the licensee's officers from taking recourse to any of those methods to have them served. Forcible collection i.e., under threat of disconnection of service is not correct. Proper procedure has to be followed by giving adequate notice of disconnection before enforcing collection. In the instant case, a notice dated 16.01.2013 appears to have been issued. But the same has not been properly served on the consumer before expressing the intent to disconnect on 28.01.2013. This is a clear violation of the letter and spirit of section 56 of the Electricity Act.

9. As for the CGRF, it ought to have given an opportunity to the appellant herein to get a copy of the written submissions made by the respondents and / or personal hearing that was sought for. Disposing of the complaint without giving such an opportunity is bad in law. Hence the order of the CGRF is set

aside.

10. However, taking note of the expressed bonhomie by both sides during the course of the hearing, it is felt that the ends of justice would be more than met by ordering that:

- the appellant shall pay all outstanding amounts, if any, against his services without further delay;
- the respondents shall issue a receipt to all such consumers who prefer to pay their bills through cheques, by duly mentioning therein that the receipt is subject to the realization of the cheque;
- in case of dishonoured cheques, the respondents shall take immediate steps to keep the consumers informed in writing duly enclosing the dishonoured cheques;
- disconnection of any service connection without following the due process laid down in section 56 of the Electricity Act shall not be resorted to by the licensee's officers; and
- that henceforth, the respondents shall submit their written submissions, if any, well in time, duly serving a copy of the same on the appellants at least 10 days before the date of scheduled hearing.

11. In the circumstances, there is no order as to costs.

This order is corrected and signed on this 12<sup>th</sup> day of March, 2014.

**VIDYUT OMBUDSMAN**

To

1. Sri Ch. Venkateswarlu, D.No. 33-10-14, Seetharamapuram Village & Post,  
Vijayawada, Krishna Dt. 520 002.
2. The Asst. Accounts Officer, ERO, Town 1, APSPDCL, Gopal Reddy Road,  
Beside State Guest House, Vijayawada 520 002.
3. The Asst. Engineer, Operation, APSPDCL, 33/11 kV Substation, Gulam  
Mohidhin Nagar, Opp. Visalandhra, Chitugunta, Suryaraopet, Vijayawada  
520 004.
4. The Asst. Divisional Engineer, Operation, APSPDCL, C&O, Beside State  
Guest House, Vijayawada 520 002.
5. The Senior Accounts Officer, Operation, APSPDCL, Opp. Raithu Bazar, Near  
PWD Ground, Vijayawada 520 002.

**Copy to:**

1. The Chairperson, CGRF, APSPDCL, 19-13-65A, Kesavayanaguta, Tirupati.
2. The Secretary, APERC, 11-4-660, 5th Floor, Singareni Bhavan, Red Hills,  
Hyderabad-04.