

## **BEFORE THE VIDYUT OMBUDSMAN**

:: Present ::

**C. Ramakrishna**

Date: 23-06-2014

Appeal No. 67 of 2013

Between

Sri. Palagiri Jaya Raju, D. No. 27-2-12/3, Mary Mata Nilayam, Redla Bazar, B.C.  
Colony, Tenali 522 201 Guntur Dt.

**... Appellant**

**And**

1. The Asst. Engineer, Operation, D3, APSPDCL, Tenali, Guntur Dt.
2. The Asst. Divisional Engineer, Operation, Town, APSPDCL, Tenali, Guntur Dt.
3. The Divisional Engineer, Operation, APSPDCL, Chenchu Peta, Tenali, Guntur Dt.
4. The Superintending Engineer, Operation, APSPDCL, 4/7 Brodiepet, Opp. Khazana Jewellers, Guntur

**... Respondents**

The above appeal filed on 20-05-2013 has come up for final hearing before the Vidyut Ombudsman on 12-06-2014 at Vijayawada. 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 he along with about 50 other families living in the B.C. Colony are not getting power supply whenever there is any gale or rain.

3. The appellant stated in his appeal that he along with about 50 other families who are residing in the B. C. Colony are facing power supply problem for about 6 months (prior to the date of complaint i.e., 20-05-2013); that he came to know that the whole problem is because of the faulty distribution transformer (referred to as 'DTr' for the sake of brevity henceforth) and distribution lines; and that in spite of informing the respondent AE, he had not taken any action. The appellant went about giving a chronological account of the problem. He stated that on 18-01-2013, he complained to the respondent DE, duly marking copies to various higher authorities as well as the respondent AE, about the power supply problem and also about the irregularities being committed by the respondent AE. He stated that in spite of this complaint, none of the authorities responded to his complaint and this made him conclude that the higher authorities are not taking cognizance of the complaints being lodged by the public and that the higher authorities are taking bribes from the lower authorities and are not doing any justice to the complaints being lodged. He further stated in his complaint that the CGRF's order mentioned that his complaint would be resolved before 30-04-2013 by the respondent officers but that it has not been resolved as on the day of his complaint; that the respondent officers are busy distributing bribes among themselves instead of doing any justice to the public. The appellant was caustic in his remarks about the way the CGRF handled the disposal of his complaint. He feels that the CGRF ought to have initiated some action against

the respondent officers. In his appeal he posed questions to this authority and the APERC and demanded that they should explain the meaning of the words used in the adverse newspaper reports that appeared about the Electricity Department. He further requested this authority to enquire and know as to how the respondent officers are causing lot of trouble to the public of Tenali. He urged that stringent action be taken against the respondent officers of Tenali Division. He enclosed copies of the correspondence he entered into with various authorities.

4. A notice was issued to the respondents for hearing the matter on 13-02-2014. Before the hearing date could approach, the appellant herein has entered into correspondence with the respondent AE & DE duly marking copies to this authority. The gist of the correspondence was that the conductors were replaced in the area but that the DTr was not replaced; that in spite of his complaint to the respondent DE about the misdeeds of Sri. K.N. Surendra Kumar, AE, D-3, Tenali no action was initiated against the individual; that the consumer meets organized locally by the DE are a waste of time as nothing is being solved in those meets; and that he will not hesitate to initiate legal action against the respondent DE for deficiency in service rendered by him.

5. The respondent officers stated in their written submissions that the work of replacement of conductors was completed by 11-05-2013; that soon after receiving the letter dated 24-01-2014 from the appellant herein, the DTr was inspected and found to be in good condition but for a deteriorating section board and rusting earth leads which were immediately replaced on 26-01-2014; that the DTr is now in perfect working condition. The respondent DE stated that based on the complaint of the appellant herein, it was found through the

report of the then AE that the LT cables with long spans were the source of trouble and that after duly sanctioning an estimate for Rs. 2.64 lakhs the work was got executed in complete shape by 20-06-2013.

6. On 19-02-2014, the appellant herein wrote a letter to the respondent SE, duly marking a copy to this authority, asking him some sarcastring questions and wanted to know as to what action was initiated consequent to the litany of complaints lodged by him.

7. On 26-02-2014 and 02-05-2014, the appellant herein filed two written submissions to this authority, stating among other things that the respondent DE had given incorrect information to the CGRF, that the respondent officers of Tenali Division had taken an inordinate delay of 21 months to correct the supply related problems in their area; that he needs to be compensated by Rs. 25,000/- for all the expenditure borne by him so far in pursuing the matter; and that action be initiated against the respondent officers because they have committed errors in discharging their duties.

8. On 19-05-2014, the respondent DE filed a written submission before this authority stating that there was a slip up in so far as communication of the change of timing of the scheduled hearing at Guntur on 21-04-2014 was concerned and that such slip ups will not be allowed to happen in future; that there was some delay in resolving the grievance of the appellant herein; and that the allegation that the officers of the Department are protecting each other while ignoring the grievances of the public are not correct.

9. The matter was heard at length on three different dates. During the course of the hearings, and from the various written submissions made by the appellant, an effort was made to understand the real grievance of the appellant herein. The appellant seems to be taking the “customer is the King” axiom quite literally and in spirit. While he is very much right to this extent, he seems to be having some expectations, which this authority doesn’t hesitate to call ‘too high’ and ‘misplaced.’ The appeal herein has raised some very interesting questions.

- a. Can an individual file an appeal on behalf of a group of consumers and seek compensation for himself?
- b. Can an appellant raise and pose questions to the appellate authorities and expect answers?
- c. Can this authority be used as a forum to raise allegations of corruption against a specific individual and expect some relief?
- d. Can an appellant expect the Hon’ble APERC itself to be made a party in the proceedings before this authority?
- e. Can an appellant be allowed to engage in bilateral communication with the respondent officers while marking copies of the communicate to this authority?

10. The appellant herein complained about experiencing power cuts whenever there were gales and rain, to the respondent AE on 04-02-2013. He was miffed by the unresponsiveness of the respondent AE and kept on complaining to various higher authorities from time to time and ultimately complained to the CGRF. As he was not happy with the outcome before the CGRF, he approached this authority in appeal. At each of the hearings

conducted by this authority, it was enquired whether or not the appellant's grievance is resolved since. In every hearing, the appellant confirmed that the grievance, in so far as it related to the supply problem, is since resolved. But that the respondent officers need to be punished for not initiating any action against the then AE, Operation -- Mr. Surendra Kumar and for their not replying to the queries posed by him in his correspondence with them.

11. Let us examine some of the contentions raised and conclusions arrived at by the appellant herein. His conclusion that the belated or non responsiveness of the respondent officers is because of their taking bribes from the lower authorities, is a very wild allegation. Drawing such conclusions without any evidence whatsoever, is not correct. Just because this forum provides an opportunity to public to air their grievances related to power supply related problems, it should not be made use of to target individuals without any basis. If the appellant has any specific proof of exchange of bribes amongst officers, he should pursue with the appropriate authorities by providing the evidence he has, to the authorities concerned. Levelling such wild allegations on all and sundry does no good either to him or to the institutions that are established to bring relief to the public.

12. The appellant reserved some of his choicest conclusions against the CGRF too. And without reason at that. He expected the CGRF to initiate some stringent action against the respondent officers. This sort of an expectation from the appellant arose out his misunderstanding of the role of the CGRF. The CGRF is a quasi judicial body that can only look into electricity distribution related problems and has no role whatsoever in disciplining the erring respondent officers. Disciplining the erring respondent officers is the domain

of the DISCOM concerned. The Forum has no disciplining power over the erring respondent officers. It can at best lay bare their ineptitude and inefficiency and based on such findings, it is for the DISCOM's management concerned to initiate action against the erring officers. In expecting the CGRF to discipline the erring officers, the appellant herein is barking up the wrong tree.

13. The appellant also posed quite a few questions to this authority and was expecting that answers should be given by this authority as well as the Hon'ble APERC for his questions. Here again, the appellant is misusing the opportunity of appeal given to him by the Electricity Act, 2003. Forums like this authority or the Hon'ble APERC are not there to answer each and every question that is posed to them misusing the right of appeal. The appellant shall note that this authority sits in appeal over the judgement of the CGRF and will go into the issues that are raised before the CGRF and before it in appeal. An appeal process cannot be converted into a catechismal session.

14. The appellant was referring to some adverse newspaper reports that appeared about the then Asst. Engineer and was surmising that in spite of the appearance of the news reports about the individual, no action was initiated against him by the higher authorities because they are in cahoots with him. It's for the higher authorities in the management of the DISCOM concerned to take cognisance of such reports and take appropriate action. An appeal process cannot be used to ventilate such grievances against an individual.

15. The appellant was also expecting this authority to enquire into the misdeeds of the respondent officers suo-motu and take stringent action. The appellant should remember that this institution is there only as the appellate

authority over the orders issued by the CGRF concerned. It does not launch enquiries against erring officers. For that the appropriate forum is only their higher authorities.

16. The appellant entered into correspondence with the respondent officers while the appeal is pending consideration by this authority. This is not correct. Once an appeal is filed, the basic submissions are to be made before this authority; but duly marking / serving copies on the other side so that the other side is made aware of his contentions and they are given an opportunity of contesting the submissions made. Instead of availing that opportunity, the appellant herein used the appeal process to pose direct questions to the respondent officers during the process of appeal. This is not correct on the part of the appellant.

17. The appellant's threatening of launching legal action against the respondent officers also is uncalled for. If he has reason to believe that he has a case to agitate against any appropriate Court of Law, he is free to do so. But threatening them with legal action in the appeal process before a different authority is uncalled for.

18. The appellant's feeling that the consumer meets organized by the respondent DE are a waste of time is also his personal feeling. Nothing is brought on record to prove that no grievance is solved at all in those meets. Without bringing the facts to the table, passing bland judgments / opinions in an appeal is uncalled for.



19. The respondent officers, on their part had committed a few errors. The first is that they did not act on the litany of complaints that were emanating from the appellant herein. There was no proper response coming from them for this inaction. Moreover, when they did finally resolve the grievance, their responses created confusion as to the exact date of resolution of the grievance. While the respondent AE said that the problem was resolved by 11-05-2013, the respondent DE stated that it was solved by 20-06-2013. But the respondents appear to have solved the grievance to the satisfaction of the appellant only by 26-01-2014. No proper explanation for this dichotomy in dates was clearly forthcoming from the respondents. But the thing that was sure was that the grievance has since been resolved and on this score the appellant also is on the same page with the respondents now.

20. The appellant's contention that the respondent officers had misinformed the CGRF about the facts of the case are not to be agitated here. They ought to have been agitated before the CGRF itself. However, even the CGRF ought to have given a reasonable opportunity of being heard to the appellant herein. That appears to have not been done. Disposal of a complaint without giving an opportunity of personal hearing cannot be stated to have been done in consonance with the principles of natural justice.

21. Coming back to the questions raised by this appeal, the appellant cannot file an appeal on behalf a group of consumers and seek compensation for himself. The claim of compensation made by the appellant is actually a claim for costs. This authority is not inclined to award any costs in this matter as it sees no merit in the claim. Nobody asked the appellant herein to file representation after representation on behalf of a group of consumers.

He is found to be having a single minded pursuit of haranguing a few of the respondent officers, rather than getting the genuine grievance resolved. Costs to be awarded in an appeal cannot be turned into instruments of profit.

22. The appellant cannot pose questions to the appellate authorities and expect answers, as the appellate authorities are not managerial authorities and sit in a quasi-judicial role to adjudicate the complaint or appeal filed before them.

23. Similarly the appellate forums cannot be used to level allegations of corruption against a specific individual because the appellate authorities are not the disciplining authorities over the individual being complained against.

24. By expecting the Hon'ble APERC to answer some of his questions, he is forcing this authority to issue a notice to the Hon'ble Commission and making them also a party to the appeal before this forum. Dragging an institution which has no connection with resolving the issues involved in an appeal in this fashion cannot be allowed. If the appellant seeks any answers from the Hon'ble Commission, he is free to approach them and the Hon'ble Commission will deal with his request as deemed fit by it.

25. During the appeal process, the appellant cannot engage in bilateral communication with the respondent officers and keep marking copies to the appellate authority. The matter being appealed against should have a definite time frame and cannot keep on stretching forever. Appeals cannot be decided over evolving matters. Appeals can be heard and decided over matters which have taken place and specific relief is being sought in the events that happened

or did not happen in the past.

26. As the complaint of the appellant is about intermittent power supply failure over a period of time -- whenever there were gales and rains, the matter comes under the service area -- Normal Fuse-off as provided for in the Standards of Performance Regulation. As the appellant has not furnished specific instances of his fuse-off calls, no compensation could be ordered at this stage. Hence this authority is not inclined to order for any compensation. However, the appellant is free to approach the respondent officers with specific details of the fuse-off calls made by him and prefer a claim of compensation for the same. If such a specific claim remains unresolved to his satisfaction, he is free to pursue the CGRF and Vidyut Ombudsman route again for getting compensated.

27. Keeping the comprehensive picture that emerged during the hearings in view, it is hereby ordered that:

- the CMD of APSPDCL, to whom a copy of this order is being marked, shall cause suitable enquiry to be initiated into the allegations against Sri. Surendra Kumar, the then Assistant Engineer of Tenali, D-3 Section and take suitable action as deemed fit; and
- the respondent officers shall ensure that the Standards of Performance prescribed by the Hon'ble Commission are strictly adhered to.

28. This order is corrected and signed on this 23<sup>rd</sup> day of June, 2014.

**VIDYUT OMBUDSMAN**

**To**

1. Sri. Palagiri Jaya Raju, D. No. 27-2-12/3, Mary Mata Nilayam, Redla Bazar, B.C. Colony, Tenali 522 201 Guntur Dt.
2. The Asst. Engineer, Operation, D3, APSPDCL, Tenali, Guntur Dt.
3. The Asst. Divisional Engineer, Operation, Town, APSPDCL, Tenali, Guntur Dt.
4. The Divisional Engineer, Operation, APSPDCL, Chenchu Peta, Tenali, Guntur Dt.
5. The Superintending Engineer, Operation, APSPDCL, 4/7 Brodiepet, Opp. Khazana Jewellers, Guntur
6. The Chairman & Managing Director, APSPDCL, Behind Sreenivasa Kalyana Mandapam, Kesavayanagunta, Tirupati - 517 501.

**Copy to:**

7. The Chairperson, CGRF, APSPDCL, Behind Sreenivasa Kalyana Mandapam, Kesavayanagunta, Tirupati - 517 501.
8. The Secretary, APERC, 11-4-660, 5th Floor, Singareni Bhavan, Red Hills, Hyderabad - 500 004.