

BEFORE THE VIDYUT OMBUDSMAN

::Present::

C.Ramakrishna

Date: 22-01-2014

Appeal No.88 of 2013

Between

Sri. P. Srinivas

Villa Nos. 1 & 2, Aparna Orchids

Izzat Nagar, HiTex

Hyderabad 500 084

...Appellant

And

1. The Assistant Engineer, Operations, Kondapur, APCPDCL, Hyderabad.
2. The Assistant Divisional Engineer, Operations, Gachibowli, APCPDCL, Hyderabad.
3. The Divisional Engineer, Operations, Gachibowli, APCPDCL, Hyderabad.
4. The Superintending Engineer, Operations, RR North, APCPDCL, Hyderabad.

...Respondents

The above appeal filed on 25-07-2013 has come up for final hearing before the Vidyut Ombudsman on 18-01-2014 at Hyderabad. Sri. P. Srinivas, the appellant as well as respondents 1 & 2 above were present. Having considered the submissions of the appellant, the respondents and the material available on record the Vidyut Ombudsman passed / issued the following:

AWARD

The appeal arose out of the disposal of the complaint before the CGRF, APCPDCL (Greater Hyderabad Area), Hyderabad in C.G. No:878/2013-14/Ranga Reddy North Circle dtd: 06.05.2013. The appeal was heard on 02-01-2014 & 18.01.2014. The appellant was present on both the days of hearing. Respondents 3 & 4 did not enter appearance. The grievance of the appellant is that the residential Welfare Association of the colony of which he is also a part had misled the electricity authorities by giving false information while getting HT connection in lieu of the existing LT connections to their gated community, the electricity authorities had willy-nilly played into the hands of the said Association to his detriment, and this had resulted in his not getting the HT service to his villas and also resulted in undue hardship to him because of the disruption in electricity supply for about 78 hours in April, 2013. During the course of the final hearing on 18-01-2014, the appellant wanted that his villas also be given the benefit of electricity supply from the HT infrastructure established for the gated community in a proper and legal manner.

2. The facts of the case are: the appellant owns two villas in the gated community that goes by the name of Aparna Orchids Colony at Izzatnagar, Kondapur, Hyderabad. By virtue of the Cyberabad Development Authority's permission for the gated community, he also holds an impartable share in the common areas and amenities including the power transformer and distribution boxes, concealed armoured 3 phase wiring and LT Meters till the house premises. There are some disputes between the appellant and the Association of the gated community due to which a few court cases are also pending before various courts. Because of the differences between them, while having their LT electricity supply infrastructure converted to HT, the Association ignored the appellant and the

appellant also preferred to stay out of the HT infrastructure at the time of such conversion. During the course of conversion of the infrastructure on 13-04-2013 supply to his two villas was cut and stayed disrupted for about 78 hours. It's this disruption in supply which has left a very bitter taste in the appellant's mouth. He feels that the local electricity authorities, especially Respondents 1 & 2 above acted favourably towards the Association of the gated community while ignoring his claims and causing him lot of inconvenience and heartburn.

3. The contentions raised by the appellant in his appeal are that:

- the electricity authorities disconnected supply to his villas on 13-04-2013 illegally and without any notice;
- for no fault of his he was left high and dry to go without electricity supply for 78 hours;
- his family's safety and quality of life was compromised for the period of disconnection suffered by him;
- while converting the LT services of the gated community to HT Category VI, the electricity authorities went ahead with the conversion without conducting any survey, without ascertaining the legality & legitimacy of the Association that made the application for the conversion;
- the conversion to HT Category was done in contravention of the conditions mentioned in the sanction letter dated 13-03-2013 of Respondent 4 in so much as a Court case is pending before the Court of the IX Metropolitan Magistrate, Miyapur and there is a 2nd service in the premises;
- HT Category VI envisages gated communities to share common premises with all the owners' agreement and hence the exclusion of 2 houses from the conversion is highly undemocratic, violates constitutional civil rights and is against the principles of natural justice;

- they never faced brownouts or severe voltage fluctuations as have started making appearance since 17-04-2013 -- the date when he was provided LT power connection from a transformer located outside the gated community;
- during the month of June 2013 they experienced failure of some appliances viz., Washing machine, Laptop & Desktop computers, and HP Inkjet printer;
- he suffered rental loss because the prospective lessees went back from moving into the house after seeing that there is no supply from HT infrastructure;
- the Association is not legitimate and had suppressed information while submitting the application for HT conversion;
- the Association is refusing to let him have the supply from the HT infrastructure unless their demands for more money and certain others are met; and
- APCPDCL had indirectly empowered the Association into arm-twisting him.

4. Further he prayed in his appeal that:

- the HT connection given to the gated community be taken back;
- the earlier LT connection with the transformer be restored;
- compensation to the extent of Rs. 500,000/- (Rupees five lakhs only) be awarded; and
- he and his family be protected from any illegal acts of disruption in services and amenities.

5. In response to the notices issued by this authority, for the first hearing Respondent 1 only entered appearance and for the second hearing Respondents 1 & 2 only were present. Respondent ADE in his written submissions stated that:

- Aparna Orchids Owners Welfare Association had submitted an application for HT Category VI connection only for 57 out of the 59 houses;

- In view of the list of Association Members (which reflected the ownership and corresponding LT service connections belonging to only 57 houses) as filed by the said Association, an estimate was prepared and got sanctioned for 57 service connections belonging to the said Members' houses;
- the requirement for continuation of the DTR that was originally erected to service all the 59 houses with LT supply became infructuous as it was found that the two LT service connections of the appellant could be serviced from a nearby public transformer;
- the appellant had approached Respondent 1 on 13/04/2013 & 15/04/2013 with a request for getting his service connections also serviced under HT Category VI like the other 57 houses of the gated community;
- on getting such a request the Respondent 1 had informed the Association of the Appellant's willingness to get supply from the newly established HT service infrastructure; and
- that in spite of the best efforts of the Respondent 1, the Association only replied saying that the issue of supply to the appellant could only be decided in their AGM/EGM.

6. The appellant also filed a written rejoinder to the submissions made by the Respondent ADE contending, among others, that:

- application for conversion from LT to HT was not submitted by the legal office-bearers of the Association as the letterhead on which the application was made to the DE, Gachibowli was not having the registration number of the Association and also that the signatories therein are not having any authorization to submit such an application;
- the electricity authorities had, without undertaking any verification as to the legality or authenticity of the persons signing on behalf of the

Association, wrongly gone ahead with the conversion of the infrastructure from LT to HT;

- the electricity authorities, while converting the infrastructure from LT to HT, had not applied the law of the land, broke many rules and did not adhere to some of the clauses / conditions of sanction;

6. The CGRF (Greater Hyderabad Area) observed that:

- a person who is residing in a Cooperative Group Housing Society can demand supply of electricity directly from the distribution licensee of the area;
- the appellant herein opted to remain under LT category for his two LT services;
- at the time of conversion from LT to HT infrastructure, the appellant's two services were deprived of LT supply, and before restoring LT supply to him, the appellant was put to inconvenience for 3 days;
- the line officials of the DISCOM had converted the LT infrastructure to HT without taking proper care to extend LT service to the appellant; and
- warned the Respondents not to repeat such callous attitude in future and ensure reliable and quality supply to the appellant's services.

7. Having gone through the material available on record, the oral and written submissions made by the appellant and the respondents, it cannot but be held that the Respondent officers ought to have exercised more diligence and caution than what they have displayed at the time of conversion from LT to HT. The appellant also had not made the life of the officers any easier, with his strong and emotional reactions to the then developing situation (looks like it is still an evolving one too). Apparently and as confirmed by the appellant himself there are strong differences of opinion among the residents of their gated community which resulted in lot of heartburn and disputes among themselves. The differences are

so strong that it appears to have even resulted in launching of some criminal cases among themselves. When the situation was so turbulent, the appellant ought to have taken all due care to ensure that the electricity authorities are informed of the differences of opinion, the legalities, authenticity or otherwise of the office-bearers of the gated community's Association right at the time (in December 2012) when the Association filed an application for conversion of LT infrastructure to HT infrastructure. In the absence of any such information, the authorities below appeared to have handled the conversion from the LT infrastructure in a routine manner -- not delving too deep into the legality or authenticity issues. The respondent officers too, ought to have noticed that something was not right in April 2013 during the process of conversion from LT to HT and at least then they ought to have taken all care to ensure that the appellant was not put to inconvenience by being deprived of supply for 3 days.

8. Some glaring oversights that have come to the notice of this authority from the material made available are:

- When the field officers have noticed the strong differences of opinion and disputes that were there among the residents, they ought to have demanded for certified copies of the documents -- especially the Memorandum of Association and the Bye laws of the Association -- and looked deeper as to whether or not the office-bearers of the Association are on strong legal ground to exclude two of the services out of the 59 that are there in the gated community.
- The respondent officers ought to have sensed that the turbulence being witnessed by them could have resulted in some legal cases too and ought to have implemented the clauses of the sanction order strictly -- especially condition 5 mentioned in the sanction letter dtd: 13/03/2013. How

did they not see as to why the continuation of the two services of the appellant under LT (albeit from another transformer from outside the gated community) constitute a violation of the condition, is not clear at all. They ought to have enquired and obtained a written undertaking from the Association's office-bearers that there are no pending court cases.

- There is no proper resolution of the AGM/EGM or the Executive Committee authorizing the people who signed the application for conversion of LT infrastructure to HT infrastructure. The authorities below should have demanded for such a proper authorization from the Applicants.

9. While it is not in the domain of the electricity authorities to settle the disputes among the various members of an Association of the gated community, they ought to have acted with lot of circumspection while converting the LT infrastructure to HT, witnessing as they were the singling out of just two of services from a society comprising of 59 houses.

10. During the course of the hearings the appellant stated that his grievance would be settled if he also is given supply from the HT infrastructure.

11. Keeping all the oral and written submissions made and the facts available from the material on record, it is hereby ordered that the respondent officers shall go through the application and all its enclosures filed by the Association of the gated community and verify whether the Association had submitted "complete application" as referred to clause 5.2.7 of GTCS or whether any false / incorrect information was submitted at the time of making the application. They shall also verify whether or not the said Association's office-bearers were having the necessary authorization to make an application for conversion of LT infrastructure

to HT infrastructure in the manner that they did, by delving into the Bye laws of the Association and calling for any requisite information like General Body resolutions etc. If on such verification, it is found that the said Association either is not having the proper authorization to make an application for conversion of LT infrastructure to HT infrastructure or had submitted incorrect / incomplete information while making such an application, they shall take necessary action to deal with such act of furnishing incorrect / incomplete information for getting power supply in accordance with the rules. The appellant herein shall submit all necessary information to the respondent authorities to enable them to scrutinize the information submitted by the Association. The respondent officers shall undertake this verification within 15 days from the date of receipt of this order at their end and submit a compliance report to this authority within 15 days from thereafter.

12. Further, the appellant shall make a fresh application, within 15 days from the date of receipt of this order, for compensation for disruption of power supply experienced by him for 78 hours during April 2013. The designated officers of the APCPDCL shall scrutinize the claim with reference to the time limits prescribed in the Complaint Handling Procedure of the DISCOM and the Standards of Performance Regulation issued by the APERC and dispose of the application on merits.

13. This part of the order mentioned in para 12 above shall be complied with by the respondent officers only if the appellant submits an undertaking to the respondents officers that he is in receipt of the orders of this authority in this appeal and he is accepting the award as given herein. If such an undertaking is not received by the respondent officers, they are not bound to process the claim for compensation afresh.

14. The appellant's prayer that the HT connection given to the gated community be taken back cannot be decided upon at this juncture unless and otherwise an opportunity of being heard is also given to the other side viz., the Association which made the application for the conversion of LT infrastructure to HT. Similar is the case with his request for restoration of LT connection for the gated community along with the former transformer. He is advised to follow the complaint handling procedure established by the DISCOM for lodging his complaints and then only approach the higher forums for relief, if he is not satisfied with the resolution of grievances by the process. No forum / institution

can give any protection from disruption in services or amenities beforehand. Hence the prayers of the appellant to that extent are not considered.

15. In the circumstances, no costs / compensation are awarded.

This order is corrected and signed on this **22nd day of January, 2014.**

VIDYUT OMBUDSMAN

To

1. Sri. P. Srinivas, Villas 1 & 2, Aparna Orchids, Izzat Nagar, HiTex, Hyderabad
500 084.
2. The Assistant Engineer, Operations, Kondapur, APCPDCL, Hyderabad.

3. The Assistant Divisional Engineer, Operations, Gachibowli, APCPDCL, Hyderabad.
4. The Divisional Engineer, Operations, Gachibowli, APCPDCL, Hyderabad.
5. The Superintending Engineer, Operations, RR North, APCPDCL, Hyderabad.

Copy To:

1. The Chairperson, CGRF, APCPDCL (Greater Hyderabad Area), -3-167/E/1, Central Power Training Institute Premises, APCPDCL, GTS Colony, Vengal Rao Nagar, Erragadda, Hyderabad - 500 045.
2. The Secretary, APERC, 11-4-660, 5th Floor, Singareni Bhavan, Red Hills, Hyderabad - 500 004.