



**BEFORE THE VIDYUT OMBUDSMAN
Andhra Pradesh & Telangana**

:: Present ::

C. Ramakrishna

Date: 23-07-2014

Appeal No. 2, 3 & 4 of 2014

Between

Appeal No. 2 of 2014

Sri D. Srirama Murthy, Flat No. T3, Door No. 9-9-47/41(10), Mohan
Residency, Doctors Colony, Sivajipalem, Visakhapatnam 530 017

... Appellant

And

1. The Asst. Engineer, Operation, D4, APEPDCL, Visakhapatnam 530 004
2. The Asst. Divisional Engineer, Operation, APEPDCL, Waltair,
Visakhapatnam 530 004
3. The Divisional Engineer, Operation, Zone I, Opp: Green Park Hotel,
Visakhapatnam 530 002

... Respondents

Appeal No. 3 of 2014

Smt. Ganta Ramanamma, Flat No. T2, Door No. 9-9-47/41(11), Mohan
Residency, Doctors Colony, Mangapuram Colony, Visakhapatnam 530 017

... Appellant

And

1. The Asst. Engineer, Operation, D4, APEPDCL, Visakhapatnam 530 004
2. The Asst. Divisional Engineer, Operation, APEPDCL, Waltair,

Visakhapatnam 530 004

3. The Divisional Engineer, Operation, Zone I, Opp: Green Park Hotel,
Visakhapatnam 530 002

... Respondents

Appeal No. 4 of 2014

Sri Voolla Poornananda Kumar, Flat No. T1, Door No. 9-9-47/41, Mohan
Residency, Doctors Colony, Sivajipalem, Visakhapatnam 530 017

... Appellant

And

1. The Asst. Engineer, Operation, D4, APEPDCL, Visakhapatnam 530 004
2. The Asst. Divisional Engineer, Operation, APEPDCL, Waltair,
Visakhapatnam 530 004
3. The Divisional Engineer, Operation, Zone I, Opp: Green Park Hotel,
Visakhapatnam 530 002

... Respondents

The above appeals filed on 01-04-2014 have come up for final hearing before the Vidyut Ombudsman on 11-07-2014 at Visakhapatnam. The appellants, as well as respondents 1 to 2 above were present. Having considered the appeal, the written and oral submissions made by the appellants and the respondents, the Vidyut Ombudsman passed the following:

AWARD

2. The appeal arose out of the grievance of the appellants that they have not been given electricity supply for not producing Occupancy Certificate from

the local municipal authorities and that the CGRF had also not considered their complaint favourably.

3. The appellants raised similar grounds in their appeals. They stated that they bought flats in Mohan Residency in the year 2010; that the Greater Visakhapatnam Municipal Corporation ('GVMC' henceforth, for short) also had been assessing them for property tax and that they have been paying the tax so assessed regularly; that in spite of their requesting the builder of the complex to arrange for electricity connection, he did not do so; that the APEPDCL authorities are refusing to give electricity supply to their flats on account of non-submission of Occupancy Certificate from GVMC; that initially the APEPDCL authorities did extend the supply from the common meter of the building to them but that they stopped it sometime later after booking a case of unauthorized extension of supply; that the respondents are now stating that because of the civil case pending about unauthorized top floor of the complex, they are unable to give supply; that there is no suit between APEPDCL and builder or anybody; that there is a suit existing between GVMC and the builder, but the GVMC had assessed them for property tax; that the respondents are refusing to give electricity connection due to non-availability of revised plan; that the APEPDCL authorities are giving electricity supply to other areas on the basis of property tax assessments, but are refusing to do the same in their case; and hence the respondent officers be directed to release electricity supply to them also.

4. While issuing a notice for hearing the matter, the respondents were directed to submit their written submissions. The respondent ADE submitted identical submissions in Appeals 2 & 3 stating that there is no Occupancy

Certificate issued for the flats of the appellants herein issued by the GVMC; that the appellants in Appeal Numbers 2 & 3 did not make an application for supply of service; that the application from the Appellant in Appeal Number 4 was received, but rejected on the ground that while there are 3 flats on the top floor, an application for only one of the flats was received; that no approved plan or Occupancy Certificate was produced by the Appellant in Appeal Number 4; that the house tax receipt enclosed along with the application by the Appellant in Appeal Number 4 for supply did not tally with the respective flat existing at the top floor; that one Mr. Manmadha Rao and Mr. Charan Kumar residing in the same complex complained about two other residents of the complex viz., Smt. D. Krishnaveni and Smt. G. Ramanamma (one of the appellants herein) providing electricity supply from the service connections of their authorized flats, to the unauthorizedly constructed flats of the appellants herein on the terrace of the complex; that soon after receiving the complaint, the DPE wing inspected the premises on 07-12-2013 and booked malpractice cases against SC Numbers 296960 & 296961 for extending unauthorized supply to the three flats of the appellants on the terrace; that at no time was the service extended to any of the flats through the common meter as alleged by the appellants; that the contention of the appellants about extension of supply from the common service is not correct as there is no such thing as common service extended to that complex and that the initial LT II supply given for construction purpose only is being referred to as common supply by the appellants; that once the construction of the complex is finished, individual flat owners have to apply for and get new service connections as per rules; that there is a civil suit pending in OS No. 1018/2010 regarding the unauthorized construction of the flats; that supply cannot be extended to the appellants merely because they have been assessed

to property tax by the GVMC; and that supply cannot be extended to the appellants unless an Occupancy Certificate is produced by them from the Municipal authorities as per rules.

5. The respondent DE also submitted his written submissions in Appeal Numbers 2 & 4 herein on similar lines.

6. The CGRF also dismissed the complaints of the appellants herein as untenable in view of their inability to produce Occupancy Certificates from the GVMC.

7. During the course of the hearings, the appellants and respondents reiterated the same points respectively. The respondents showed the humungous correspondence that ran in relation to this issue among themselves and also with one Mr. A. Manmadha Rao, who has been agitating that electricity supply to the flats of the appellants cannot be extended because they are constructed unauthorizedly. So, the two questions that arose for consideration before this authority are:

- a. Whether the appellants are entitled for supply of electricity in view of their inability to produce the Occupancy Certificate from GVMC; and
- b. Whether or not there is any need to interfere with the orders of the CGRF in the matter.

8. During the course of the hearings the respondents produced copies of the GVMC plan approvals for the complex. They clearly showed that there is no approval for the flats of the appellants herein. It is because of this

non-existence of approval that the appellants are not able to produce Occupancy Certificate from GVMC. Clause 4(1) of the APERC(Licensee's duty for supply of electricity on request) Regulation, 2013 reads...

“Every distribution licensee shall, on receipt of an application from the owner or occupier of any premises, give supply of electricity to such premises within the time specified in sub-clause (2) subject to payment of fees charges and security and the due fulfillment of other conditions to be satisfied by such owner or occupier of the premises:

Provided that in case of applications requiring supply under Low Tension Agricultural Category, such obligation on the part of the licensee shall be limited to the number of connections that can be covered within the target fixed for the year for release of agricultural connections. The licensee shall maintain a waiting list of such applicants in a serial order based on the receipt of such application and the waiting list number shall be communicated to the concerned applicant in writing within 15 days of receipt of application. If the applicant's case cannot be covered in the programme of release of agricultural connections fixed for the year, it shall be so indicated in the said written communication.” (Emphasis supplied)

9. The regulation lays down that the Licensee has a duty to supply

electricity to the applicants, subject to the applicants fulfilling certain conditions that may be specified. Since the Licensee felt that the production of an Occupancy Certificate from the GVMC or the local municipal authorities is a prerequisite for supply of the electricity, the applicants will have to fulfil that condition before expecting to receive electricity supply. As this prerequisite of submission of an Occupancy Certificate is a reasonable restriction sanctioned by law -- i.e., the regulation framed by the Hon'ble Commission in so far as it mentions about "due fulfillment of other conditions", the Licensee is not violating his duty to supply on request.

10. The contention of the appellants that the respondents are not releasing electricity supply to them because of the existing litigation between GMVC and the builder is denied by the respondents during the hearing. The appellants' further contention that the absence of Occupancy Certificate has not stopped the GVMC from levying and collecting Property Tax from them, is not a relevant factor before this authority. The appellants can question such levy of Property Tax before the appropriate forum. The appellants also contended that the respondent officers have been releasing electricity supply based on property tax assessments has not been supported by any documentary evidence. Mere oral assertions cannot be relied upon in the light of denial by the respondent officers.

11. The Licensee has the requirement that any owner of a premises that exceeds a height of 10 meters has to necessarily produce an Occupancy Certificate. Such a requirement does not constitute an unreasonable restriction on the applicant for supply of electricity. As the appellants herein failed to produce the Occupancy Certificate from the local authorities, issue

one is answered in the negative and it is held that the respondents are not committing any error in refusing to supply electricity unless Occupancy Certificate is produced from the GVMC authorities. As the CGRF also held the same view, it logically follows that the order of the CGRF cannot be interfered with at this stage.

12. Therefore, the appeals filed are dismissed.

13. This order is corrected and signed on this 23rd day of July, 2014.

VIDYUT OMBUDSMAN

To

1. Sri D. Srirama Murthy, Flat No. T3, Door No. 9-9-47/41(10), Mohan Residency, Doctors Colony, Sivajipalem, Visakhapatnam 530 017
2. Smt. Ganta Ramanamma, Flat No. T2, Door No. 9-9-47/41(11), Mohan Residency, Doctors Colony, Mangapuram Colony, Visakhapatnam 530 017
3. Sri Voolla Poornananda Kumar, Flat No. T1, Door No. 9-9-47/41, Mohan Residency, Doctors Colony, Sivajipalem, Visakhapatnam 530 017
4. The Asst. Engineer, Operation, D4, APEPDCL, Visakhapatnam 530 004
5. The Asst. Divisional Engineer, Operation, APEPDCL, Waltair, Visakhapatnam 530 004
6. The Divisional Engineer, Operation, Zone I, Opp: Green Park Hotel, Visakhapatnam 530 002

Copy to:

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