

BEFORE THE VIDYUT OMBUDSMAN

Present

K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated: 25-08-2010

Appeal No. 29 of 2010

Between

Sri G.R.Anand
S/o. G.N.Ramayya Gouda (Bengalur Iyengar Bakery)
Nidadavole (V) & (M)
W.G.Dist.

... Appellant

And

1. Assistant Engineer/Operation/APEPDCL/ Town / Nidadavole
2. Asst. Divisional Engineer / Operation / APEPDCL / Nidadavole
3. Divisional Electrical Engineer / Operation / APEPDCL / Nidadavole
4. Asst. Accounts Officer / ERO / APEPDCL / Nidadavole

....Respondents

The appeal / representation dt. 23.06.2010 received on 03.07.2010 of the appellant has come up for final hearing before the Vidyut Ombudsman on 17.08.2010 at Visakhapatnam, appellant present and Sri V.V.Ramana Rao, I/c AAE/Op/Town/Nidadavole on behalf of respondents present, and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following:

AWARD

The complainant has submitted a complaint on 20.03.2010 and that the case was registered by the licensee by making them responsible for the wrongs not committed by them and prayed for justice and the matter was registered as CG No. 06/10.

2. The respondent No.2 has submitted his written submissions as hereunder:-

“with reference to the above, it is submitted that the SC No. 8846, Cat-II/Nidadavole Town was inspected by Sri K.Ram Babu, ADE/DPE-I/Eluru on 23.02.2010 at 13.05hrs and noticed that the meter left side and right side MRT seals are not department seals and no MRT seal on Top side. Therefore the meter is referred to MRT lab, Vatluru for testing the meter and was tested at MRT lab, Vatluru, Eluru on 25.02.2010 and the results reveal as follows:

- 1) the meter MRT seals are not departmental standard seals.*
- 2) The meter MRT seals wire is also not the standard departmental supply wire.*
- 3) The seal bit impression is not of departmental standard sealing plier impression.*
- 4) The configuration of letters and numbers on MRT seals are found different from the standard departmental supplied seal bits and sealing pliers impression configuration.*

Therefore, consumer committed theft of energy by meddling the meter u/s 135 of EA 2003.

Hence, theft of electricity case is booked and assessment notice is issued for an amount of Rs.26834. The consumer paid 50% of the amount of Rs.13517/- vide BCRC No. 200827 dt.18.03.2010 for the balance amount a petition will be filed by the APEPDCL in the District Court, Eluru.

It is submitted that the meter is packed in closed cover and opened in the presence of the consumer at MRT lab. The meter is tested at MRT lab Eluru on 25.02.2010 in the presence of consumer Sri T.Srinivas Rao, AE/O/T/Nidadavole, ADE/DPE-I/Eluru, AE/LT Meters/Eluru and ADE/CT Meters/Eluru. The MRT test report is here with enclosed. The condition of the seal bit and seal wire will not be known by the spot billing reader or operation staff because the seal bit impression, configuration of letters and type of seal wire will be known by testing the meter at MRT lab only.

Hence it is submitted that theft of electricity case is booked based on the inspection made by Sri K.Rambabu, ADE/DPE-I/Eluru and further testing results of the meter at MRT lab as given in the inspection report of the ADE/DPE-I/Eluru vide Lr.No.DE/ADE/DPE/ELR/Doc No.6257/d.No186/10, dt.26.02.10”

3. After hearing both sides and after considering the material available before the Forum, the Forum held that a case is registered under S.135 of Electricity Act 2003, this Forum has no jurisdiction on such matter. Hence, the Forum has directed the appellant to approach the competent Forums for redressal of his grievance and disposed accordingly.

4. Aggrieved by the said order, the appellant preferred this appeal, questioning the same, that he has sent all the copies to the authority and he has been suffering economically and financially before hearing the case by the Forum. A notice was served on him to pay the amount and submitted all the representation along with the notice served on him by the department and the same may be verified and justice may be done to him by looking into the facts as he is not well educated and he is not aware of the seals or change of seals and it cannot be known to anybody and he has been paying bills without any failure right from the beginning of the business and the fault lies with the respondents, if they are informed of the same at the time of taking reading at the first instance, but not after a long time and these facts have not considered by the Forum and the appeal is to be allowed by setting aside the impugned order.

5. Now, the point for consideration is, “whether the impugned order, dated 22.05.2010, is liable to be set aside? If so, on what grounds?”

6. The appellant has attended before this authority at the time of hearing of appeal on 17.08.2010 and the respondents represented by Sri V.V.Ramana Rao, I/c AAE/Op/Town/Nidadavole present. The appellant has stated that the position of the meter and the position of the seals are not known to him and how the seals are available to the meter and how they are not original seals it is not known to him. It is also the contention of the appellant that it is not known to him or any official or any educated as to how the seals are to be fixed with one wire or wire lies on the seals and no consumer would be in a position to state these particulars, when there is variation or change in the seal itself, it would have been informed by the officials of the respondent, while recording the reading and when it is not placed by any body prior to the date of inspection, he is not liable to pay the said amount demanded and half of the amount paid under protest may be ordered for refund.

7. The respondents have submitted that it is a case of theft of energy and a case was booked under S.135 of EA 2003 and this Forum or the appellate authority are not competent to entertain the appeal, since there is no deficiency

of service and if defects are there, it will be noted in test of MRT. The MRT test revealed that the seals are not the original seals and the appeal preferred by the appellant is liable to be dismissed.

8. It is clear from the record that MRT test is made and the report disclosed that at the time of inspection, it is noticed that the meter left side and right side MRT seals are not department seals and no MRT seal is on the top side. Therefore the meter is referred to MRT lab for testing. It shows that there is a tampering with the meter. Whether actually theft of energy is there or not, it cannot be decided by this authority. But it is a case within the definition of theft of energy as mere tamper itself is sufficient u/s 135 of EA 2003. When it is a case of theft of energy, it is not a case within the ambit of deficiency of service to attract the jurisdiction of the Forum as well as appellate authority. The above said aspects have clearly revealed that this authority is not competent to entertain the appeal and the Forum is also not competent to entertain the case and the appeal preferred by the appellant is devoid of merits and he has to approach concerned SE by making a representation before him by placing all the relevant facts before him, as this authority is not competent to entertain the appeal by looking pathetic condition of the appellant.

9. In the result, the appeal is dismissed. The appellant is at liberty to approach the concerned SE within 15 days from the date of receipt of this order and if any appeal is filed, the SE is directed to dispose of the appeal in accordance with the EA 2003 and rules and by looking into the financial position of the appellant as narrated by the appellant in his representation and also by affording an opportunity of being heard and the appeal is to be disposed in accordance with merits.

This order is corrected and signed on this day of 25th August 2010

VIDYUT OMBUDSMAN