

BEFORE THE VIDYUT OMBUDSMAN

Present
K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated: 29.11.2010

Appeal No. 44 of 2010

Between

Sri K.Anjaneyulu
S/o.Sri Venkata Raju,
Prop: Sri Venkateswara Rice Mill,
Peruru – 533 218.
Amalapuram (M), EG Dist.

... Appellant

And

1. Assistant Engineer / operation / Town /Amalapuram
2. Assistant Engineer / operation / Rural /Amalapuram
3. Assistant Divisional Engineer / Operation / Amalapuram
4. Divisional Engineer/Operation/ Amalapuram

....Respondents

The appeal / representation dated 02.10.2010 (received on 07.10.2010) of the appellant has come up for final hearing before the Vidyut Ombudsman at Visakhapatnam on 15.11.2010 in the presence of Sri K.Anjaneyulu, appellant present and Sri L.L.N.Kiran, AE/O/Rural/Amalapuram present for the respondents and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following

AWARD

The appellant filed a complaint before the Forum stating that the Bit-I of Peruru village is under the jurisdiction of AE/Rural/Amalapuram with its section office at Kamanagaruver Sub-Station is provided with 7hrs of 3 phase supply where as the Bit-II of Peruru village is provided with 24hrs 3phase supply

keeping under the jurisdiction of AE/T/Amalapuram and requested for 24hrs 3phase supply to Bit-I of Peruru village on par with Bit-II as per the direction issued by the Hon'ble Lokayukta against the respondents in complaint No. 129/09/B1, dt.11.09.2009 and the matter has been registered as CG No.127/2010-11.

2. The respondent No.4 submitted his written submissions as hereunder:

"The 16 wards of Peruru village are situated two different locations geographically.

The Bit-I is being fed by the rural feeder (11kV Peruru from Amalapuram Sub-station) and Bit-II is being fed by the Town feeder (11kV college feeder from Amalapuram sub-station).

The Bit-II of Peruru village is geographically situated in part of the Municipal area and it cannot be separated from the town in respect of providing supply.

And hence, 24 hours supply is being provided and the services also provided as part of town section.

Where as the Bit-I is under the Amalapuram rural section and agricultural services existing on the feeder apart from the domestic and industrial services.

As per the Lokayukta directions 24 hours single phase supply is being provided to Bit-I also on par with town feeder.

The complained is requesting for 24 hours 3phase supply for his industry.

Unless there are clear instructions from the higher authorities, the local officers cannot extend 24hours 3 phase 24 hours supply or not."

3. After hearing both sides and after considering material placed before the Forum, the Forum held that

"As per the procedure, if the subject matter of the complaint is shown pending consideration before any court, tribunal or arbitrator or any other Forum or a decree or award has already been passed by a competent court of law, the Forum can forthwith reject the complaint.

Hence, the Forum itself is not having power to entertain this complaint as there was a direction in this issue from Hon'ble Court, Lokayukta, Andhra Pradesh.

The Complainant ought to have approached the Superintending Engineer / Operation / Rajahmundry by preferring an appeal against the said orders of Lokayukta.

In this result, the CG No. 127/10-11 is dismissed, no orders as to costs."

4. Aggrieved by the said order, the appellant preferred this appeal questioning the same, that the finding of the Lokayukta is final and no appeal is required to be filed before Superintending Engineer. It ought to have seen that he filed a petition before Superintending Engineer / E.G.District under RTI Act for implementation of the Hon'ble Lokayukta's order and when no response was received thereupon, he approached the Forum seeking redressal. The Forum ought to have considered the appeal as filed for implementation of the directions to the SE on the final orders of Lokayukta. The lower court erred in holding that it has no jurisdiction and also erroneously directed the appellant to approach Superintending Engineer / E.G.District or Vidyut Ombudsman to file an appeal ignoring its own powers to enforce the orders passed by the Hon'ble Lokayukta. Hence, the appeal preferred by the appellant is to be allowed by setting aside the impugned order.

5. Now, the point for consideration is, "whether the impugned order dated 15.09.2010, is liable to be set aside? If so, on what grounds?"

6. The appellant himself appeared at the time of hearing and submitted that they are suffering a lot for shortage of power supply due to the step-motherly affection of the department, inspite of the order passed by the Hon'ble Lokayukta; and that the Forum has erroneously held, that it has no jurisdiction to entertain the same though, it is the duty of the Forum to implement the orders of

the Hon'ble Lokayukta and the appeal preferred by the appellant is to be allowed by setting the impugned order.

7. The respondents are represented by Sri L.L.N.Kiran, AE/O/Rural/Amalapuram present and submitted that they are making efforts to implement the orders and they are contemplating to supply the power to the entire village and the appeal preferred by the appellant is liable to be dismissed.

8. The ADE/O/Amalapuram has submitted a report to this authority which reads as follows:

- *Peruru village, as stated by the petitioner, geographically has two contours (Bit-I and Bit-II as referred by him). Bit-II is an integral part of Amalapuram Municipality and is treated as urban area from the beginning. Whereas Bit-I is completely rural area and Bit-I and Bit-II are separated by agricultural fields in between.*
- *The Bit-II is extended 3-phase, 24 hours supply on the premise that it is a part of Amalapuram Municipality on par with other municipal area adjacent to it.*
- *Coming to Bit-I, Peruru village is situated in rural area and it has got power supply facility from a rural feeder on par with other rural area adjacent to it.*
- *There are no agricultural services in Bit-II urban vicinity while Bit-I has got agricultural services along with domestic and other services.*
- *A proposal was submitted to SE/O/Rajahmundry vide DE/O/Amp/AE/Comml/D.No.1791/10, dt.26.10.10 for segregation of agricultural loads on the feeder feeding Bit-I with a view to implementing the orders issued by Lokayukta vide 129/2009/B1.*
- *In addition to that a proposal was submitted to corporate office, visakhapatnam for erection a new 33/11KV SS at Peruru village.*
- *If the substation comes into being, Peruru village as a whole will have 24hours 3phase supply with a new feeder proposed from the proposed sub-station.*
- *However, single phase supply is extended round the clock for the present to Peruru Bit-I area according to directions issued by Lokayukta."*

9. The above said proposal submitted before this authority clearly shows that if the sub-station comes into being operation, the whole village will have 24hours 3phase supply with a new feeder proposed from the proposed sub-station, he

has not mentioned anything about the time limit before the Lokayukta. The SE/Rajahmundry stated before Hon'ble Lokayukta that Peruru Bit-I and Bit-II are being supplied power under two 11KV feeder channels which are also supplying the power under the municipal area of Amalapuram. It is also reported "that as a policy of the Government, power is supplied 24hours except in certain contingencies such as grid exigencies and local breakdowns." Basing on this report, the Hon'ble Lokayukta closed the petition directing the authorities to "standby the said statement submitted to the Lokayukta in its report." The Lokayukta refused to give permission to move once again incase of non-compliance, as no permission is required. *"It is always open to any aggrieved parties to approach this Institution and no specific provision or permission is required to be incorporated in the orders passed by this Institution."*

10. The non-compliance of the order ought to have been reported to the Hon'ble Lokayukta instead of approaching the Forum. He ought to have filed a petition before the Hon'ble Lokayukta for implementation of the order, since a direction has already been given by the Hon'ble Lokayukta to stand by the said statement given by the Superintending Engineer. The grievance of the appellant shows that the order is not implemented. Merely, because he has approached the Lokayukta, it does not mean that the Forum is ceased of the matter. If the matter before the Lokayukta is pending and if any petition is filed with the same relief, no doubt the Forum is not entitled to entertain the same. This principle is also applicable *mutandis mutandis* to this authority. The approach made by the appellant to the Forum is only on the misapprehension that the Hon'ble Lokayukta has refused to give permission to approach for non-compliance of the order passed by the Hon'ble Lokayukta. It is not the intention of the Hon'ble Lokayukta since the party is at liberty to move for which no permission of the Hon'ble Lokayukta is required. When the party is at liberty to move for which no permission is required, as there is no such provision and when that is the intention of the Hon'ble Lokayukta, he would have filed a petition before the Hon'ble Lokayukta for the non-compliance of the order.

11. Infact, no matter is pending before Hon'ble Lokayukta and the Forum is not precluded from taking action for implementation of the order passed by the Hon'ble Lokayukta. The Forum has erroneously rejected the request made by the appellant. Even otherwise, the respondent himself has submitted a report to this authority that they are taking every step for implementation of the power supply of 24hours 3phase to the 16 wards ie., Bit-I and Bit-II equally. However, the supply of single phase for 24hours is not at all useful to the appellant and other industries. So the representation made by the appellant in the Forum for non-compliance, ought to have considered by the Forum, but erroneously held that it has no jurisdiction to entertain the same.

12. In view of the above said circumstances, it is necessary to direct the respondents to comply the orders of the Hon'ble Lokayukta and also the finding of this authority to comply the same within four months from the date of receipt of the order.

13. In the result, the appeal is allowed by setting aside the impugned order. The respondents are directed to comply the orders of the Hon'ble Lokayukta and also directions of this authority to provide supply equally to Bit-I on par with Bit-II within 4 months from the date of receipt of this order. The appellant is at liberty to move this authority or Lokayukta if it is not complied within the above said period stipulated by this authority.

This order is corrected and signed on this day of 29th November, 2010

VIDYUT OMBUDSMAN