

BEFORE THE VIDYUT OMBUDSMAN

Present

K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated: 30 -07-2011

Appeal No. 28 of 2011

Between

Sri K.Daniel Prem Kumar
MIG III-172, Phase-3,
VUDA colony, Cantonment
Vizianagaram – 535 003.

... Appellant

And

1. Assistant Engineer / operation / Jami
2. Assistant Engineer / operation / S.Kota
3. Divisional Engineer/Operation/ Vizianagaram

....Respondents

The appeal / representation received on 13.06.2011 of the appellant has come up for final hearing before the Vidyut Ombudsman on 19.07.2011 at Visakhapatnam. Sri Daniel Prem Kumar, appellant present Sri G.Chiranjeevi Rao, DE/O/Vizianagaram and Sri G.Prasad, ADE/O/S.Kota for the respondents present 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 he is not getting a new agriculture connection, though he paid the required charges on 28.07.2009 and requested the Forum to pass an order for redressal of his grievance and avoid loss to him.

2. The respondent Nos.1, 2 & 3 have filed their written submissions as hereunder:

“Sri K. Daniel applied for 3HP Agriculture service at Jennivalasa (V) on 02-06-09 and accordingly the estimation was prepared by the then Assistant Engineer/Operation/Jami and the estimate was sanctioned vide SDR No.417/09-10 dt.15-07-09, for an amount of Rs.98,457.00 and the consumer was intimated for payment of necessary charges. The necessary charges were paid on 28-07-09.

Again the consumer on 15-06-10 registered CSC complaint for additional poles duly stating his bore point was changed with in the same survey number requesting for estimation of same and given his consent for payment of the amount and accordingly the then Assistant Engineer/ Operation/Jami has prepared estimation on 17-06-10 and the same was sanctioned vide SDR 435/20-07-10 for an amount Rs.29,499/- and the consumer was intimated.

Work order was applied for the work on 31-07-09 and the work order bearing No.100000063503 was issued on 05-08-09 and the requisition for poles was given to the Civil wing on dt.11-08-09 vide requisition No.35959. It was informed by the then Assistant Engineer/ Operation/ Jami that due to shortage of poles, the poles were issued after 15-20 days and by the time poles were received, due to heavy rains, poles could not be transported. The location is at a distance of 2KM away from the road point (which is field) and there is no proper accessibility for transporting of poles. By the time the poles were transported, the bore point was shifted to another location in same survey number. In view of past experience of difficulty in transporting of poles to that location the work of 3Nos HT poles and 1No.LT poles was completed as per the promise made by the consumer for payment of additional amount incurred because of change in bore location. The work was carried out (i.e. erection of 11KV line and LT pole) in order to save delay in carrying out work to the prospective consumer. The DTR to be erected and AB cable to be laid and it was kept pending for non payment of additional amount incurred due to change in the bore location.

The consumer has not paid the additional amount of Rs.29, 494/- till date. During the review meeting conducted by Superintending Engineer/Operation/Vizianagaram, it was instructed to issue notice to the consumer for payment of amount immediately as there is every chance of erected line to be accessible to theft and hence the notice was issued to the consumer by the Assistant Divisional Engineer/Operation/ S.Kota vide Lr.No.ADE/O/S.Kota/ F.No.10/D.No. 1091/10, Dt.29-10-10. But the application was not deleted and service can be released if the consumer pays the amount as per the intimation.”

3. After hearing both sides and after considering material placed before the Forum, the Forum passed an order as hereunder:

- *“The respondents are herewith directed to release the agriculture service connection at Jennivalasa Village, Vizianagaram immediately without waiting for the payment of revised estimate cost payable by the complainant.*
- *The complainant is liable to pay the revised estimate cost of Rs.29,499/- immediately as per the notice issued already.*
- *For the delay in releasing the said service, the Licensee is liable for compensation payable to the affected prospective consumer/Complainant @ Rs.250/- per each day of default over and above 60 days from the date of original payment i.e. from 28-07-09 till the date of release of the service connection as per Standards of Performance specified in schedule-II of regulation No.7 of 2004, APERC.*
- *Superintending Engineer/Operation/ Vizianagaram is directed to conduct a detailed enquiry and take necessary disciplinary action on the concerned staff/ officers and he shall implement the order within 90 days from the receipt of this order duly implementing the directions as stated and compliance reported within a week thereafter.”*

4. The appellant appeared before the Forum on 19.07.2011 at Visakhapatnam and submitted that the Forum has directed them to pay compensation @ Rs.250/- per day but they did not pay the amount as there was abnormal delay in releasing the agricultural connection and inspite of the efforts made by him, he did not receive any information from the officers regarding compensation. He was an unemployed graduate and chosen cultivation as profession to make his livelihood and he borrowed monies and taken loans from private financiers for investment and dug a bore well and applied for agriculture connection with a hope that he will clear the debts within four years and finally requested this authority to implement the orders of the Forum so that he can come out of the financial problems.

5. Whereas the respondents are represented by Sri G.Chiranjeevi Rao, DE/O/Vizianagaram and Sri G.Prasad, ADE/O/S.Kota and they submitted that there was no delay on their part and the same was considered by the Enquiry Officer in the enquiry report dated 28.05.2011 and the appeal preferred by the appellant is liable to be dismissed.

6. Now, the point for consideration is, “whether the appellant is entitled for compensation. If so, what amount?”

7. It is clear from the record that an estimation was prepared for Rs.98,400/- and the same was paid by the appellant on 28.07.2009. He submitted a letter to the department that the bore was failed due to stuck up of plastic pipes in the bore and then another line was erected to the point of 2nd bore well without receiving payment of Rs.29,499/-. The consumer again registered CSC complaint on 15.06.2010 for additional poles as per the assurance of respondent No.1 stating that the bore point was changed and the estimate was prepared on 17.06.2010 for Rs.29,499/- and the same was intimated to the appellant on 29.10.2010. Till passing of the order, he did not pay the amount, but the Forum ordered to release agriculture connection immediately without waiting for revised estimated amount and also directed the appellant to pay the estimated cost of Rs.29,499/-. On the very next day he paid the amount and the service connection was released on 22.02.2011.

8. The Forum has unnecessarily made an observation to pay @ Rs.250/- per each day of delay over and above 60 days from the date of original payment from 28.07.2009 till the date of release of service connection as per the standards of performance in Schedule – II of Regulation No. 7 of 2004 of APERC.

9. The very said observation is with regard to the service connection to first bore, but the very first bore itself is failed and a fresh application is filed on 15.06.2010. The period has to be reckoned from that date onwards as the failure of bore cannot be attributed to the respondents to reckon the period from 28.07.2009. The service is to be released by 16.08.2010. The estimation was made and the communication was sent to him on 29.10.2011. How the Forum has passed an order directing the releasing of service connection without paying estimated amount and communicated to the respondents on 29.10.2010 is not known. If at all if there is any delay the delay is right from November 2011 but not prior to that date. Standards of performance is only with regard to service connection on the estimate made for the first time but not on the revised estimate and the delay in paying the amount. When there were no latches in releasing the service to the 1st bore well and

when the same was accepted by the consumer imposition of compensation for the 1st bore is against to the principles of natural justice. The standards of performance has to be taken into account from the date of application for revised estimate, but not prior to that date. The Forum ought to have observed all these aspects and it also ignored the very letter submitted by the appellant to the respondent that there was no fault on the part of the respondents in particular, the service connection for the 1st bore well, but it was due to the spoiling of the bore when it was stuck up of plastic pipes but not due to lack of electricity power. When the period is calculated from 01.11.2010 to 20.02.2011 it comes to 112 days and the respondents are liable to pay @ Rs.250/- for the above said period of 112 days which comes to Rs.28,000/-. The failure of transportation of poles to the 1st bore due to rains and non-availability of transportation is not at all material in this petition, since the latches are also there on the part of the respondents.

10. In the light of the above said discussion, the respondents are liable to pay a sum of Rs.28,000/- as compensation within 30 days from the date of receipt of this order.

11. The compliance of the order shall be intimated to this office within 30 days from the date of receipt of this order.

This order is corrected and signed on this day of 30th July 2011

VIDYUT OMBUDSMAN