

BEFORE THE VIDYUT OMBUDSMAN

Present

K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated: 21 -04-2011

Appeal No. 8 of 2011

Between

Sri S.K.Pandey

Flat No.401, Gupta's Enclave

D.No.43-5-16, Railway New colony

Visakhapatnam – 16.

... Appellant

And

1. Asst Engineer/Operation/ Thatichetlapalem
2. Asst Divisional Engineer/Operation/ Dondaparthy
3. Divisional Engineer/Operation/ Zone-I/Visakhapatnam
4. Asst. Accounts Officer/ERO/ East/Visakhapatnam

....Respondents

The appeal / representation filed dt.28.02.2011 (received on 03.03.2011) of the appellant has come up for final hearing before the Vidyut Ombudsman on 07.04.2011 and 08.04.2011 at Visakhapatnam, in the presence of Sri S.K.Pandey appellant and Sri A.V.V.Surya Pratap DE/O/Zone-I/Visakhapatnam and Sri K.Rajasekhar, ADE/O/Dondaparthi for 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 SC No.94, Cat-II stands in the name of his father and the same was handed over to the builder at the time of construction of group houses and the same was utilized for the purpose of

feeding common area loads without insisting for a new service connection to the common area purpose while releasing the 11 nos. services to the group houses and requested for releasing of a new service connection to the common area of the group houses without utilizing the SC No.94.

2. The respondent No.1 filed his written submissions as hereunder:

“As per the complaint of Sri S.K.Pandey Owners Association, Gupta Enclave, Railway new colony, the Report is as noted below.

- 1) The 11 Nos. domestic services were registered at Call Centre on 11-10-2006. Consequently, the estimate was prepared in the above reference (3) and it was sanctioned vide reference (4). Later on intimation, the consumer paid necessary charges on 28-10-06. But the consumer had not submitted the occupancy certificate. It was intimated to the consumer, to submit the occupancy certificate vide reference (5).*
- 2) As per the plan approval, the ground floor is proposed for parking, but there constructed a flat in the ground floor. Hence, the services were not released due to non producing of occupancy certificate.*
- 3) Later, as per the instructions vide circular Memo:- CMD/EPDCL/VSP/CGM/O&CS/ F.CSC/D.No.5294/09, Dt.25-11-09, i.e. the services can be released if the tax is assessed.*
- 4) Hence, on producing of tax receipts by the consumers, the services were released on 18-12-09.”*

And the existing meter of Sc.No.215625 is considered as common meter.”

3. The respondent No.2 also filed his written submissions as hereunder:

“ The dispute is for a request for common area meter as a new service connection to cellar of group house and Sc.No.94, Cat-2, for common use is to be changed.

The 11 Nos. services were released for group houses in the name of S.K.Pandey Owners association, Railway new colony, Visakhapatnam. And as per plan approval, the ground floor is proposed for parking only and in the place of parking area, a house was constructed and assign tax from GVMC authorities for domestic purpose and the service was released on 25-11-09 and the existing services Sc.No.215625 is considered as common meter based on the request of the consumers.

Further, it is to submit that common procedure for the construction of group houses and apartments are 1 No. service is taken under Cat-II and after completion of the construction all flats in the group house or apartment the

services were released and existing construction purpose meter is converted as a common service meter.”

4. After hearing both sides and after considering the material placed before the Forum, the Forum passed the following order:

- *“The Respondents are directed to clear the doubts of the complainant on the utilisation of loads as per the General Terms and Conditions of Supply.*
- *The Complainant is advised that he got liberty to utilize his service connection by connecting the loads as per his requirement duly following the guide lines of General Terms and Conditions of Supply.”*

5. Aggrieved by the said order the appellant filed this appeal questioning the same that the utilization of SC No.215625 has been considered as common meter with his consent is not correct and 11 Nos. service connections were sanctioned in his name without his application. No letter was sent to him to produce occupancy certificate; and that the department connected the service connection very hastily and the same has to be investigated into and necessary action has to be initiated against the respondents.

6. Now, the point for consideration is, “whether the impugned order dt.07.02.2011 is liable to be set aside or modified ? If so, on what grounds?”

7. The appellant Sri S.K.Pandey appeared before this authority and stated that his present service connection was utilized for common purpose without his consent and the same can not be utilized and the common meter obtained by the builder is used by him for the unauthorized construction made by him in the cellar portion; and that he has made complaint to the municipal authorities for removal of unauthorized connection and the authorities inspite of his request, they have not given any clarification and no action is initiated against the builder, who is unauthorisedly using his service connection for common purpose and order passed by the Forum is to be modified accordingly.

8. Whereas, the respondents who appeared before this authority have categorically stated that they have no right to disconnect the service connection without any direction from the Forum or authority and the builder has applied for 11 nos. service connections

in different individual names and that they are prepared to implement the orders given by this authority.

9. It is very clear from the above said material that the complainant has stated that the premises along with service connection were given to the builder for conversion of the premises into group houses. The said service connection was utilized by the builder throughout the time for construction of the flats, i.e for watering, etc. The said service connection is now put for use for the common purpose i.e lift, lighting common areas, etc. without the consent of the owner of the service connection.

10. It is represented that the builder has constructed a portion of the cellar into a full-fledged flat and utilized the said 11th service connection to the said premises. Whether he has constructed the said building authorisedly or unauthorisedly it is not the job of the electricity department to verify the realities thereon. Moreover, the respondents have categorically stated that the service connection was given on production of tax receipts. Accordingly, they might have released the services to the premises. The only thing which this authority has to see is whether, any premises is there for which the service connection has applied with a valid request and whether the same service connection is utilized by paying CC bills regularly or not. If there is no valid request or if the bills are not regularly paid, no doubt, the same can be ordered to be disconnected.

11. Now, it is very clear that the builder has constructed 10 flats and applied for service connections in different names 1 to 10. The same has been mentioned in his application submitted to the department. The 11th service connection was obtained in his name i.e in the name of Sri D.S.Gupta and the nature of service was mentioned as common purpose and it was a single phase. There is no mention about the construction made in the cellar for which a service connection has to be provided and no application is filed to that effect. But it is very clear, that the said common service is being utilized for the said construction of flat in the cellar. It is for the municipal authorities to verify whether it is an authorized or an unauthorized construction, it is the job of that department to remove the unauthorized construction, but the electricity

department is no way concerned with regard to the demolition of unauthorized construction, etc. The only job of the department is to verify whether there is any occupation of the premises where service connection is required to that effect. If the formalities as required under GTCS are placed by producing relevant record of occupancy, etc. the service can be given. In this case no service connection is applied to the cellar flat, but he has been utilizing the 11th service connection which is meant for common use and not for use by any flat owner. Therefore, it is very clear that he has mislead the department and got 11th service connection as per his application and connected to the flat in the cellar. This itself is an unauthorised use and the same has to be disconnected forthwith and with a direction to put the same for common purpose. The service connection now under use for common purpose is in the name of the father of the appellant and it is for the department to continue the service connection as requested by the appellant and if he desires to remove the same from the said common usage, the same can be disconnected and same can be put to use as per the wish of the appellant.

12. In the light of the above said discussion the impugned order is modified directing the respondents are directed to

- (i) disconnect the 11th service connection got unauthorisedly and to put the same for common purpose
- (ii) to disconnect the service connection which is in the name of the father of the appellant from the common use and same can be put to use as per the wish of the appellant on his request.

13. In the result, the appeal is disposed with the above said modifications – no order as to costs.

This order is corrected and signed on this day of 21st April 2011

VIDYUT OMBUDSMAN