

VIDYUT OMBUDSMAN
O/o: ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION
4th Floor, Singareni Bhavan, Red Hills, Hyderabad – 500 004

Present

K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated: 03-05-2012

Appeal No. 9 of 2012

Between

Smt. S. Padmavathi
W/o. Apparao,
Door No. 3-334, Bommuru,
Rajahmundry, E. G. Dist.

... Appellant

And

1. Asst. Engineer /Operation/ APEPDCL/ Dowlesvaram
2. Asst. Divisional Engineer/operation / Town - II / APEPDCL/ Rajahmundry
3. Divisional Engineer / operation / APEPDCL / Rajahmundry

....Respondents

The appeal / representation dt. 20.01.2012 received by this authority on 23.01.2012 against the CGRF order of APEPDCL C.G. No. 367 / 2011-12 of East Godavari District dt.27.12.2011. The same have come up for final hearing before the Vidyut Ombudsman on 23.04.2012 at Visakhapatnam. The appellant absent but her husband Sri. Appa Rao sent a fax about his case. Sri N. Samuel, ADE / Operation / Town – II / Rajahmundry on behalf of respondents present, heard and having stood over for consideration till this day, the Vidyut Ombudsman passed/issued the following:

AWARD

The petitioner filed a complaint before the CGRF against the Respondents for Redressal of his Grievances. She has mentioned in her complaint about her grievances as hereunder:

The respondents have erected in her vacant place during March, 2009 with out their notice and consent. There upon she has filed a complaint in the call centre, Rajahmundry for shifting of the pole. When no action is taken by the respondents she has submitted the complaint before the Consumer Grievances Redressal Forum, Visakhapatnam for shifting of the said pole.

2. The 2nd respondent submitted his written submissions before the Forum as here under.

"The contents of the complaint made by Smt S.Padmavathi are not true and baseless complaint is made by the petitioner. In fact the electrical lines are installed in good olden days by observing all rules and regulations and by the time the questioned poles are installed through agricultural fields. Subsequently, the agricultural fields have been converted and bifurcated as house sites and the petitioner has purchased with the knowledge of the existence of the liens and poles. On field inspection, it is observed and concluded that there is no possibility to shift the existing pole to any where else due to local problem and also non availability of site to shift the same to some where else. Further, the local residential house owners are also not willing to shift the existing pole from where their service connections have been released".

3. After hearing both sides and after considering the material on record the Forum passed the following order :

- On verification of detailed written submission of respondents, the existing lines and poles were erected before converting the agricultural fields into house sites at Bommuru.
- Hence, before purchasing the house site by the complainant, the said line and poles are existing.
- If the complainant wants shifting the existing pole and line, the shifting charges have to be paid as per Clause No.5.2.4 and 5.3.4 of General Terms and Conditions of Supply.
- As per the above clauses not only shifting charges, necessary "Way-Leave" has to be arranged by the complainant only.

Clause No.5.2.4 of GTCS

Where the consumer's premises has no frontage on a street and the supply line from the company mains has to go upon, over or under the adjoining premises of any other person (and whether or not the adjoining premises owned jointly by the consumer and such other person), the consumer shall arrange at his own expense for any necessary way-leave, Licensee or sanction. The company shall not be bound to afford supply until the way-leave or sanction is granted. Any extra expenses incurred in placing the supply line in accordance with the terms of the way-leave,

Licensee or sanction shall be borne by the consumer. In the event of the way-leave, Licensee or sanction being cancelled or withdrawn, the consumer shall, at his own cost, arrange for any diversion of the service line or the provision of any new service line thus rendered necessary.

Clause No.5.3.4 of GTCS

Charges for shifting of service:

The estimate for shifting the existing service will cover the following items as chargeable to the consumer.

- i) Dismantling charges at the old site.
- ii) Transport charges from the old site to the new site.
- iii) Re-erection charges at the new site.
- iv) Depreciation on the old materials if any not reused at the site.
- v) Overhead charges.
- vi) Cost of new materials if required; and
- vii) Cost of irretrievable materials.

The consumer shall pay the above charges included in the estimate in advance before taking up shifting operations.

Hence no merits in her complaint and dismissed with no cost.

Accordingly, the CG.No.367/11-12 is disposed off.

4. Aggrieved by the said order, the appellant preferred this appeal questioning the impugned order. In the appeal grounds the appellant has mentioned that there are 7 service connections to the said pole and it is very easy for them to shift the same to another near by empty pole; and that only one house is in between his site pole and main road; and that with out convincing the local people, the A E is creating the problems and the Forum has failed to observe the same and asked to pay charges unnecessarily, though it is their duty to shift the same. Hence the impugned order is liable to be set aside.

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

6. The appellant failed to attend the hearing when this authority contacted her husband on phone, the husband of the appellant stated that he has already sent arguments through fax and requested this authority to pass order by considering the same and by looking into the sentiments of the appellant, as it is against to vastu.

7. In the fax arguments he has mentioned his grounds for grievances as here under.

- a) old cement pole and LT wires were installed long back. Now the residential houses are there and on the request of the owners to shift the pole, the respondents have not shifted the pole, fixed in his site.
- b) They have objected on the very next day of installation and the A.E promised to remove, but he did not do it even after lapse of 3 years.
- c) It is not a difficult thing for them to shift the pole and wires, but they are not doing the same.
- d) Though there is empty pole near by, the respondents are not doing the same at the instance of the neighbours.
- e) The forum has not observed the same and the impugned order is liable to be set aside by ordering the respondents to shift the pole and the wires to some other place with out any expenses and suitable action may be initiated against the concerned officials.

8. The concerned ADE Sri. N.Samuel attended the hearing and submitted 3 photographs and stated that there is no possibility to shift the pole and lines. He has also stated that the pole and lines were there even prior to the purchase of the site by the appellant and he purchased the same with full knowledge about the existence of the pole and the lines. It is also stated by him that the husband of the appellant is not cordial with the neighbours and they are objecting for shifting of the pole and the appeal filed by him is liable to be dismissed.

9. It is very clear from the above said submissions that the pole and electric lines are passing though the site of the appellant. The appellant claims that they were laid on 6th March 2009. Where as, the respondents have stated that they were in existence since a very long time and the appellant purchased the same with full knowledge of existence of pole and the wires. So it is for the appellant to establish that it was installed in the year 2009 that too after his purchase. He has not discharged the burden cast upon him.

10. If it is established that the same is fixed after his purchase, it is the duty of the respondents to shift the same to some other place. There is no such possibility in this case as there is no evidence to establish that it is made after his purchase.

11. Further more, the appellant claims that it is against to her family sentiment. The law does not look in to the sentiments. It looks in to provision of law or equities by looking into circumstances there in. More over, it is a vacant site. He has not made any effort to make a construction on the vacant site. If he obtains approval of the plan from the concerned authorities for construction and approaches the respondents with a claim that the electric lines are causing obstruction to his construction, there may be some force in his contention by looking into the equities. If he wants to shift, the lines and the pole, he has to follow the directions given by the CGRF as the things now stand as there is no other option, since the provision of law is against to his contention.

12. If he approaches after approval of the plan for construction, the department can not escape its liability to shift the same by simply saying that there is no alternative site for them. They have to oblige under the doctrine of “law of compulsion” by collecting necessary charges. If the pole and the lines are erected subsequent to his purchase, it is for the department to shift the same at their expenses as they are not expected to do the same with out his consent.

13. If the petitioner approaches again after approval of the plan and if he establishes that the respondents erected the same after his purchase, the same can be shifted at the expanse of the respondents. If he fails to establish, he has to pay necessary charges as ordered by the Forum.

14. With this observation, the appeal is disposed, but with out costs.

This order is corrected and signed on this day of 3rd May, 2012

Sd/-
VIDYUT OMBUDSMAN