

BEFORE THE VIDYUT OMBUDSMAN

**:: Present ::
C.Ramakrishna**

Date: 07-12-2013

Appeal No.42 of 2013

Between
K. Prabhakar Reddy
6-1-118/18, Padmarao Nagar,
Secunderabad - 500 025

...Petitioner

And

1. The Assistant Engineer, Operation, APCPDCL, Hyderabad.
2. The Assistant Divisional Engineer, Operation, APCPDCL, Hyderabad.
3. The Divisional Engineer, Operation, APCPDCL, Secunderabad.

...Respondents

The above appeal filed on 29-05-2012 has come up for final hearing before the Vidyut Ombudsman on 06-12-2013 at Hyderabad. Sri. K. Prabhakar Reddy the appellant was present. None of the respondents was present. Having considered the submissions of the appellant and the material available on record, the Vidyut Ombudsman passed/issued the following:

AWARD

The gist of the appeal filed by the appellant is that the respondent second above, through his letter dtd: 07-12-2010 had issued a notice for development charges and security deposit amounting to Rs.10,400/- in spite of the load not having exceeded 3,000 Watts at any time.

2. None of the respondents, including the first respondent referred above that appeared for hearing on 19-06-13, filed any written submission against the appeal filed by the appellant. Nor did any of the respondents appear before the Vidyut Ombudsman for presenting their point of view.

3. Having posted the case for hearing on 19-06-2013, 22-08-2013 and 06-12-2013, the Vidyut Ombudsman is constrained to consider the material available on record.

4. The appellant's premises was inspected on 18-09-2010 by the respondent second above and it was found that there was usage of electricity for the purpose other than for which it was authorized. Accordingly a provisional assessment order dtd: 04-10-2010 was issued for payment of Rs.12,273/-. The appellant had reportedly paid the amount. With that the issue of unauthorized use of electricity got closed. While this was so, on 07-12-2010 the respondent second above issued a notice for development charges and security deposit based on an inspection made on 13-11-2010. The stated reason for raising the demand for the payment of development charges and security deposit was that the connected load (4.880 kW) exceeded the contracted load (3.0 kW). It is against this demand for Rs.10,400/- that the appellant approached the CGRF (Greater Hyderabad Area) of APCPDCL and the Forum passed an order in C.G.No.366/ 2011-12, Hyderabad North Circle, dtd: 18-04-2012.

5. Having considered the deposition of the complainant and the respondents before it, the Forum in its order held that the connected load at the time of inspection was 4,880 Watts on 13-11-2010 against the contracted load of 3,000 Watts and that the complainant before it has also not appealed to the D.E within the time limit. These findings of the Forum are not based on recorded facts. First of all, issuance of notice pursuant to the purported finding of the second respondent ADE for development charges and security deposit is not done invoking section 126 of the Indian Electricity Act. Nor was it stated in the notice as such. When that is so, the question of filing an appeal before the D.E, that too in time, does not arise. Secondly, while an inspection done on 13-11-2010 reportedly revealed a connected load of 4.880 kW, another inspection that was referred to in the Forum's order reveals that the connected load as on 09-04-2012 was 3001 Watts. There is nothing on record to show that principles of natural justice were followed while concluding that the connected load at both points in time was more than the contracted load. Principles of natural justice demand that a person who is being charged with connecting

more load than what he is entitled for, is made aware of the calculations / details of the connected load at the time of inspection and his presence is authenticated by obtaining his signature on the calculation sheets / inspection report. Accordingly, the 2nd respondent ADE ought to have obtained evidence of presence of the consumer during the inspection made by him on 13-11-2010. But there is no such record available on the file. The Forum while giving its order has made an incorrect finding that the case falls under section 126 of the Indian Electricity Act. The order of the Forum refers to another inspection report of the ADE on 09-04-2012 that gave a finding that the connected load was 3001 Watts. Further, it went on to give a finding that the appeal before the D.E was not filed within the time limit.

6. The facts to be noted are that the appellant was not given the reasonable opportunity of having been heard at the time of inspection on 13-11-2010 by being made aware that the connected load is found to be more than the contracted load at the time of inspection. Any record of reasonable opportunity having been given at the time of inspection even on 09-04-2012 also is not available. Issuance of notice dtd: 07-12-2010 for development charges and security deposit was not done u/s 126 of the Act. Cases of connected load exceeding contracted load are governed by Clause 12.3 of the General Terms & Conditions of Service ("GTCS") issued by the APERC. Therefore, the question of filing any appeal before the D.E within the time limit prescribed does not arise.

7. The respondents appear to have not acted in a fair and equitable manner while conducting their inspections in the premises of the appellant. As the findings of the inspections done on 13-11-2010 and 09-04-2012 are substantially at variance with each other, the respondents are hereby directed to inspect the premises of the appellant duly giving the appellant an opportunity of being heard at the time of inspection and take action as provided for under clause 12.3.3.1, if it is found that connected load exceeded the contracted load. This shall be done within the 60 days from the date of receipt of this award and the appellant shall give all the cooperation to the respondents by being present at the time of inspection.

8. The appellant shall communicate to the respondents the fact of his acceptance of this award within 30 days from the date of receipt of this award as provided for in Clause 12(6) of Regulation 1 of 2004, failing which the respondents are free to pursue the consequential action in terms of the notice dtd: 07-12-2010 issued by them. The respondents shall comply with this award within 15 days of the receipt of the acceptance letter from the appellant, as provided for in Clause 12(7) of Regulation 1 of 2004, and shall intimate their compliance to the Vidyut Ombudsman within one week from thereafter.

9. The appeal is disposed of accordingly.

This order is corrected and signed on this 7th day of December, 2013.

VIDYUT OMBUDSMAN

To

1. K. Prabhakar Reddy
6-1-118/18, Padmarao Nagar,
Secunderabad - 500 025.

2. The Assistant Engineer, Operation, APCPDCL, 33/11 kV Substation, Near Gandhi Hospital, Padmarao Nagar, Hyderabad.

3. The Assistant Divisional Engineer, Operation, APCPDCL, 33/11 kV Substation, Near Gandhi Hospital, Padmarao Nagar, Hyderabad.

4. The Divisional Engineer, Operation, APCPDCL, Paradise Circle, 33/11 kV Substation, Secunderabad.

Copy to:

1. The Chairperson, Consumer Grievances of Redressal Forum, APCPDCL, Greater Hyderabad, Area, Door No.8-3-167/E/1, Central Power Training Institute (CPTI) Premises, GTS Colony, Vengal Rao Nagar, Erragadda, Hyderabad.

2. The Secretary, APERC, 11-4-660, 5th Floor, Singareni Bhavan, Hyderabad-04.