



**BEFORE THE VIDYUT OMBUDSMAN
Andhra Pradesh :: Hyderabad**

:: Present ::

C. Ramakrishna

Date: 01-10-2015

Appeal No. 84 of 2013

Between

Sri. P. Narasimha Murthy, D. No. 65-6-652, Himachal Nagar, Opp: Zink Gate, New
Gajuwaka, Visakhapatnam - 530 026

... Appellant

And

1. The AE/Operation/APEPDCL/Autonagar/Visakhapatnam
2. The AAO/ERO/APEPDCL/Gajuwaka/Visakhapatnam
3. The ADE/Operation/APEPDCL/Gajuwaka/Visakhapatnam
4. The DE/Operation/APEPDCL/Zone II/Visakhapatnam
5. Smt. P. Padmavathi/Ramalayam Street/Gajuwaka/ Visakhapatnam

... Respondents

The above appeal filed on 19-07-2013 has come up for final hearing before the Vidyut Ombudsman on 21-09-2015 at Visakhapatnam. The appellant, as well as respondents 1 to 5 above were present. Having considered the appeal, the written and oral submissions made by the appellant and the respondents, the Vidyut Ombudsman passed the following:

AWARD

2. The appeal arose out of the complaint of the consumer about his mother obtaining an electricity connection with the help of some alleged forged documents on

a property that he claims as his. He was not happy with the order of the CGRF in the matter.

3. The appellant stated in his appeal that he had allowed his mother to construct a tin shed house on his house site for her living; that she had, with a devious intention of illegally passing on that property to her daughter and son-in-law had brought them to that house and had, by colluding with the electricity department, obtained electricity connection by producing forged documents; that his complaints about the same to all the higher ups in the DISCOM had not been acted upon and instead the electricity authorities are advising him to leave the matter there as the person he is complaining against is his own mother; that his pleas for justice about the fact of her obtaining an electricity connection by producing forged documents, ignoring the relationship had gone unattended; that therefore a thorough enquiry be conducted to determine as to who is the culprit in this regard and disconnect the service connection released to his mother. He filed lot of material in support of his contentions.

4. Notices were issued for hearing the matter. The respondent ADE stated in his written submission that the service was released on 18-12-2009 after due verification of the documents furnished by the AE, Autonagar; that the consumer has been availing supply and has been paying bills regularly since then; that four years after the release of the service connection, the appellant raised the objection about the release of service and sought its disconnection; that the appellant himself had stated in his submissions that there is an ongoing civil dispute about the ownership of property and that an FIR also was filed in Gajuwaka Police Station; that in view of this, he sought legal opinion from the standing legal advisor; that the legal opinion favoured the maintenance of status quo in the matter; that therefore status quo is being maintained

in the matter; and that there is no truth in the submission of the appellant that the department officials advised him to be lenient in the matter in view of the person being complained against by him is his own mother. He submitted a copy of the legal opinion from the standing legal advisor.

5. As the issue pertains to continuance or otherwise of a service connection belonging to Smt. P. Padmavathi, she was also joined as a respondent in the matter and a notice was issued to her. She had filed her written submissions stating that none of the allegations being levelled by her son are true and that the documents filed along with the appeal by her son do not have any relevance to her premises and were created only for the purpose of making the present claim by her son; that the premises in question does not belong to her son as he has neither the right, title nor ownership of the property; that she had been in possession and enjoyment of the property from 1979; that the site in question was allotted to her by the Government and that the electricity department had released the service connection to her after due verification of the documents filed by her; that the appellant is conscious of the fact that he is raising a civil dispute and had adopted a backdoor method to evict her from her premises by questioning the release of service connection to her; that a combined reading of the provisions of the Regulation 1 of 2004 reveals that a grievance of a consumer who is supplied with power by the DISCOM is maintainable before the Ombudsman but not by a rival claimant of the property and that therefore the appeal is not at all maintainable; and that hence the appeal filed by her son is not at all maintainable.

6. During the course of the hearing, the appellant and the respondents confirmed what they stated in writing and also filed additional material in support of their

contentions. The key points that arose for consideration in this appeal are:

- a. Whether or not the appeal is maintainable at all in the first place;
- b. What is the scope of verification of documents filed at the time of obtaining an electricity connection; and
- c. Whether or not the CGRF's order is liable to be set aside in this case.

7. In view of the claims and counterclaims, the very question of maintainability of the appeal arises in this case. Clause 2(c) of Regulation defines who is a "Complainant" thus:

(c) "Complainant" shall include—

- (i) A consumer as defined under clause (15) of section 2 of the Act;
- (ii) An applicant for new connections;
- (iii) Any registered consumer society; and
- (iv) Any unregistered association of consumers, where the consumers have similar interest;

From a plain reading of the above, it is clear that the appellant herein does not fall under any of the definitions given in (ii), (iii) and (iv) thereof as he is not an applicant for a new connection, nor a registered consumer society or unregistered association of consumers. The only definition that he can fall under is (i) above and to examine it further, clause (15) of section 2 of the Electricity Act, 2003 needs to be referred to. It reads:

(15) "consumer" means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be;

A harmonious reading of the above clause reveals that the complainant should be having a grievance about the supply being made to him by the DISCOM. Even if the complainant is a consumer by virtue of his having one or more other service connections, unless he falls squarely within the definition of 'consumer' with reference to the grievance being agitated about, his grievance cannot be taken as a complaint and he cannot be called a complainant in the case. Much less when is seeking disconnection of a service which has been released to someone else -- whether or not he has any relationship with that someone. For these reasons, the appellant herein cannot be called a complainant in the first place and his complaints in regard to the issue being agitated about ought not to have been entertained by any officer of the DISCOM in the first place. The appeal before this authority also consequently is not maintainable.

8. Coming to the second issue that is framed, the appellant's fervent submission during the course of the hearings has been that the DISCOM's officers had turned a blind eye to the fact that his mother had produced forged documents for obtaining the electricity connection. He feels that he had proved the forgery beyond doubt and that therefore the DISCOM's officers are bound to disconnect the service on that basis. The respondents on the other hand contend that for the release of service connection there is a set procedure and that the procedure entails submission of certain documents along with the application. Once the application along with the documents

produced is verified, and on being satisfied that the service has to be released, the service will be released by the concerned officer of the DISCOM. They contend that the scope of this verification cannot encompass their taking the role of investigative agencies to find out whether or not they are genuine. Their further contention is that their duty is to undertake a prima facie verification of the documents produced and if it is found that the required documentation is furnished, they would normally release the service connection. In this regard, the requirement of documentation for obtaining a new service is observed and is reproduced below from the website of the DISCOM:

7. Supporting Documents enclosed

- a. Completed and signed application form : { yes / No }
- b. Identity Proof (any one of the :- Ration card, Aadhar Card, pass port, Election Id, PAN card etc) { yes / No }
- c. i. Proof of Ownership (any of the following 1. Sale deed, 2. Allotment, Possession letter, 3. Municipal Tax receipt, 4. Gift deed, 5. Will deed or any other valid document) { yes / No }

OR

- ii. An **indemnity bond** (to be executed on Rs.100/-Non-Judicial or Rs.100/- Special adhesive stamp paper) drawn by the owner of the premises in favor of the company whereby the owner of the premises undertakes to indemnify the company of any loss causes to the company by the applicant who is the tenant / occupant of the premises) arising out of the release of service to the tenant / occupant. { yes / No }

OR

- iii. Any applicant, who is not covered under (a) and (b) above , shall execute an **INDEMNITY BOND** (to be executed on Rs.100/-Non-Judicial or Rs.100/- Special adhesive stamp paper), indemnifying the licensee against any damages payable on account of any dispute arising out of supply of power to the premises. He shall also pay three times of Security Deposit. { yes / No }
- d. Wiring Certificates for all LT services.
- e. Name transfer form and indemnity bond for name transfer applications. { yes / No }
- f. **Registration Details::**

Name of Section		Registration No:	
Name of Sub-Div		Date of Registration	
Name of ERO		Location code	
Amount paid		Receipt No	

This requirement was there reportedly from a long time -- including the time when the appellant's mother obtained the service connection -- more or less in the same form but for the addition of a few items in ID requirements etc. This is not at much

variance with what is mentioned in the Application Form for LT connections that is prescribed in Appendix I of the GTCS. An extract of the relevant portion is reproduced for ready reference:

11. Supporting documents enclosed (Please tick where applicable):

Category	Supporting Documents to be Furnished
Common to all LT categories except Commercial & Industrial	<input type="checkbox"/> Completed & signed Application Form along with the Signed Declaration <input type="checkbox"/> Proof of ownership (Sale deed, Allotment/possession letters lease deed, Municipal tax payment receipt) or Proof of occupancy (Lease/ Rental deed with landlord, Electoral identity card or Passport or PAN card along with proof of ownership of landlord) <input type="checkbox"/> Indemnity Bond (Letter of consent from landlord to tenant/ lessee/ occupier) <input type="checkbox"/> Wiring Completion Report (from a licensed electrical contractor) <input type="checkbox"/> Test Report <input type="checkbox"/> Demand Draft for new connection charges

From a perusal of the above, it is clear that some proof of ownership needs to be produced. The question that the DISCOM's officers should be concerned at the time of release of service is whether or not such a proof -- in the form of document -- is produced. If it is produced, the requirement is met. The mandate of the DISCOM's officer does not go beyond that verification about production of the document. It is not for him to sit in judgement whether or not the document so produced is a forged one. If it appears to his satisfaction that the document produced is genuine prima facie, he will act on it. If somebody else contends that the document is forged or fake, then the course open to them is to pursue it in the forums meant to enquire into those allegations and act on those that are found responsible. It is beyond the scope of the DISCOM's officers to sit in judgement in such matters. In such matters, it ultimately boils down to, as in the present case, deciding about the rightful ownership of the property in question. A DISCOM's officer is least equipped to decide such matters. They are all matters which are in the purview of a civil court and they should

be pursued there. If some criminal act is alleged in the production of such documents, then the course open for the person complaining of it, is to pursue it before the appropriate forum -- the Police and / or the Magistrate of the concerned area. The appellant herein had in fact pursued those paths also. From a perusal of the material papers filed herein, it is evident that he had filed Writ Petition 5055/2013 before the Hon'ble High Court and the Hon'ble Court held, in its order dated: 20-02-2013 that by filing representations before the DISCOM, the appellant herein cannot seek adjudication of such issues by the DISCOM. Yet, he is approaching the DISCOM's authorities complaining of the same things.

9. A perusal of the material papers filed before this authority shows that the appellant had filed OS No. 106/2015 before the Hon'ble VII Additional District Judge at Visakhapatnam seeking a decree in his favour for the property in question. That being so, running to the DISCOM's authorities, the CGRF and this authority seeking findings about the genuineness or otherwise of the documents produced by his mother for obtaining the electricity connection amounts to abuse of process. By such acts, he is indulging in forum shopping, and also perhaps contempt of Court. As and when the Civil Court decides that the land in dispute belongs to the appellant, and such a decision had attained finality, he is free to approach the DISCOM seeking release of service connection in his name.

10. Section 43 of the Electricity Act, 2003 casts a duty on the DISCOM to supply electricity even to a person who is a mere occupier of the property. An extract of the Section is given hereunder:

Duty to supply on request

43. (1) Every distribution licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply :

Provided that where such supply requires extension of distribution mains, or commissioning of new sub-stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or

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commissioning or within such period as may be specified by the Appropriate Commission.

Provided further that in case of a village or hamlet or area wherein no provision for supply of electricity exists, the Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.

11. Therefore, the DISCOM can never sit in judgement about who is the legal / rightful owner of the property in question. It is for the Civil Courts to decide such an issue. The DISCOM is duty bound to supply electricity to an occupier of the premises also, provided other requirements of obtaining an electricity connection are fulfilled. It is keeping this position in view that the Hon'ble Commission had provided for measures operationalizing such situations:

5.2.2 The requisition shall be made by the owner or occupier of the premises for which supply is required. The application form complete in all respects and accompanied with the undertaking and prescribed fees, charges and security, shall be submitted at the office of the Officer specified in the Designated Officers' Notification. The Company shall verify the application and the enclosed documents at the time of receipt of application, and shall issue a written acknowledgement.

5.2.3 An applicant who is not the owner of the premises he occupies and intending to avail of supply shall submit an Indemnity Bond drawn by the owner of the premises in favour of the company whereby the owner of the premises undertakes to indemnify the company for any loss caused to the company by the applicant (who is the tenant/ occupant of the Premises) arising out of the release of service to the tenant/ occupant. Otherwise he shall be required to pay three

* Modified as per proceedings No. Secy/02/2006 dated:27-02-06
General Terms & Conditions of Supply

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times the normal security deposit apart from providing proof of his being in lawful occupation of the premises.

12. A reading of Clause 5.2.3 of the GTCS, extracted above, shows that a mere occupier of the premises also has to be released a supply. As long as the DISCOM is satisfied that the requirement of the production of necessary documentation is met by the applicant, the DISCOM is free to release the service connection. Its decision cannot be found fault with. Hence, the second point framed is held in favour of the respondents. The scope of their verification of the documents produced cannot encompass investigating to find out whether or not they are forged.

13. Coming to the last issue, the CGRF had correctly held that the matter cannot be interfered with at this stage. Hence there is nothing wrong with the order issued by the CGRF. Accordingly, it is upheld.

14. Therefore, the appeal filed by the appellant fails and is dismissed in toto.

15. This order is corrected and signed on this 1st day of October, 2015.

16. A digitally signed copy of this order is made available at www.vidyutombudsman.ap.gov.in.

VIDYUT OMBUDSMAN

To

1. Sri. P. Narasimha Murthy, D. No. 65-6-652, Himachal Nagar, Opp: Zink Gate, New Gajuwaka, Visakhapatnam - 530 026
2. Smt. P. Padmavathi, W/o Late Tata Rao, Survey No. 131, Ramalayam Street, Srinagar, Auto Nagar, Gajuwaka, Visakhapatnam District - 530 026
3. The Assistant Engineer, Operation, APEPDCL, Autonagar, Visakhapatnam
4. The Assistant Accounts Officer/ERO, APEPDCL, Gajuwaka, Visakhapatnam
5. The Assistant Divisional Engineer, Operation, APEPDCL, Gajuwaka, Visakhapatnam
6. The Divisional Engineer, Operation, APEPDCL, Zone II, Visakhapatnam

Copy to:

7. The Chairman, C.G.R.F., APEPDCL, P&T Colony, Seethammadhara, Near Gurudwara Junction, Visakhapatnam - 530 013
8. The Secretary, APERC, 11-4-660, 4th Floor, Singareni Bhavan, Red Hills, Hyderabad - 500 004