



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

:: Present ::

C. Ramakrishna

Date: 18-09-2015

Appeal No. 102 of 2014

Between

Smt. Somireddy Ramudamma, D.No. 1-1, Raja Veedhi, Banadhi Gramam, Vepada (M)
Vizianagaram District

... Appellant

And

1. The AE/Operation/APEPDCL/Vepada/Vizianagaram District
2. The ADE/Operation/APEPDCL/S. Kota/Vizianagaram
3. The DE/Operation/APEPDCL/Dasannapeta/Vizianagaram

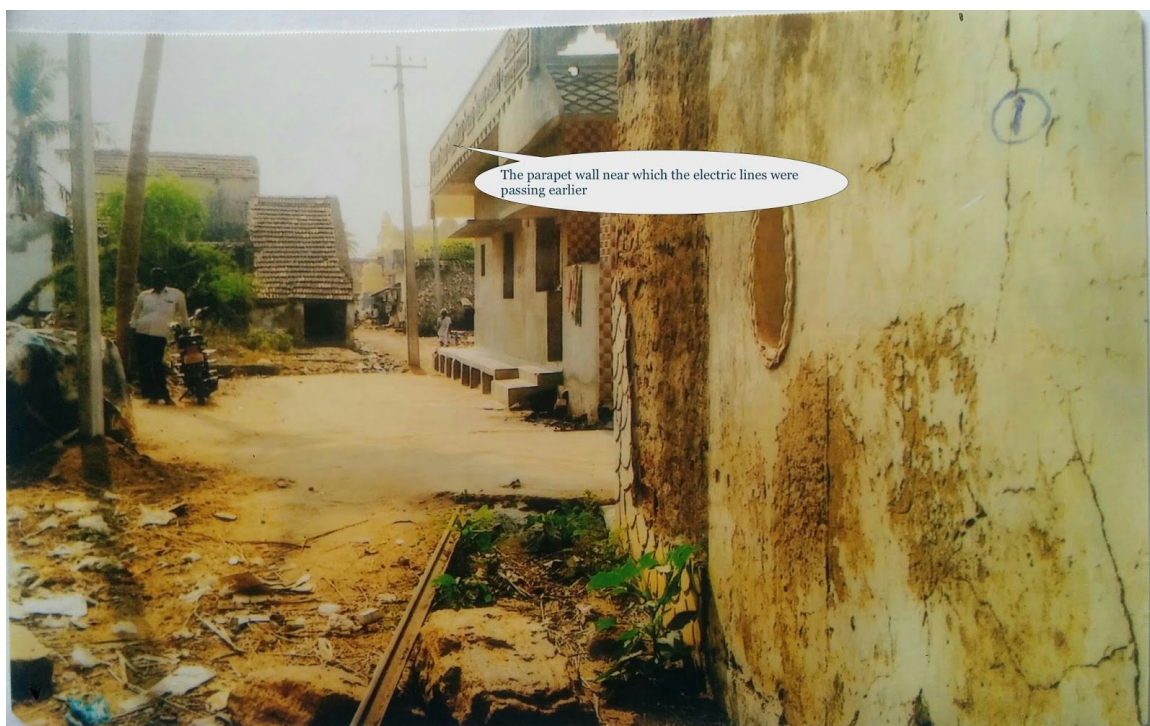
... Respondents

The above appeal filed on 11-03-2015 has come up for final hearing before the Vidut Ombudsman on 07-09-2015 at Vizianagaram. The appellant, as well as respondents 1 to 3 above were present. Having considered the appeal, the written and oral submissions made by the appellant and the respondents, the Vidut Ombudsman passed the following:

AWARD

2. The appeal arose out of the complaint of the consumer about shifting of an electric pole from one place to another. The appellant was not happy with the order passed by the CGRF and hence the appeal.

3. The appellant's basic grievance is that the DISCOM authorities had shifted an electric pole from one place to another and in the process had unnecessarily felled a tree belonging to her. She had not sought any compensation for the felled tree but wants the DISCOM authorities to shift the pole from the existing place to its earlier location. She complained in her appeal that the DISCOM authorities had unnecessarily shifted the pole from its earlier location and in the process caused felling of her tree only with a view to help another resident in the area by shifting the electric lines that were passing through in very close proximity to his building's parapet wall, to the other side of the road. All the submissions made in her appeal accused the DISCOM authorities of conniving with the other resident only with a view to help him and deny justice to her. She enclosed some photos along with her appeal which deserve a closer look to understand the issue being raised by her.



The appellant contends that the old iron pole, which can still be seen in the picture was actually located in straight line to the nearest electric pole and that by erecting the new pole at a different location, the DISCOM authorities had actually caused the electric lines to criss-cross the road.



By this second photo, the appellant contends that the alignment of the lines was changed intentionally by erecting the new pole at a different place from the earlier place. She further contends that the CGRF erred in incorrectly observing that the earlier pole was in the midst of the road and that the newly erected pole is in fact in the midst of the road.



With this photo, the appellant argues that the tree in the picture fell not due to cyclone and that it was fell by the DISCOM authorities purposefully only to facilitate the erection of the electric pole at the new location. She further contends that the location of the electric pole was changed only to benefit the resident of the house near whose parapet wall the electric lines were passing earlier. Her contention is that the resident owner of that building had illegally extended the parapet wall and that it is on his influence that the DISCOM authorities had shifted the line alignment to favour him and thus facilitated his illegal construction of the parapet wall.

4. Notices were issued for hearing the matter. The respondent DE filed his written submission stating that the new pole was erected a location about 8 feet away from the old location; that at the time of erecting the new pole, the existing tree was cleared as it was obstructing the erection of the pole; that no objection was received from any quarter while erecting the pole; and that the pole was erected in 'Grama Kantam' as certified by the Village Sarpanch. The respondent DE submitted during the

hearings that the appellant need not have any objection whatsoever for the location of the pole at the new place as it was erected not in her land and was erected in 'Grama Kantam.' He further submitted that the coconut tree was felled as it was obstructing the erection of the pole at the new place. The tree, according to him, was substantially bent toward the road and was obstructing the erection of the pole at the new location.

5. During the course of the hearings, the appellant and the respondents stuck to their points of view. The key points that arose for consideration in this appeal are:

- a. Whether or not the DISCOM's authorities had erected a pole on private land belonging to the appellant;
- b. Whether or not the DISCOM's authorities had felled a tree that was standing on the private land of the appellant;
- c. Whether or not the CGRF's order is liable to be set aside in this case;
and
- d. Whether or not the appellant has any locus in raising the dispute.

6. Coming to the first issue, the gist of the appellant's grievance is that the DISCOM's authorities had erected a pole at a place which is 8 feet away from its earlier location. During the course of the hearings, the appellant furnished some more material in support of her contentions. She pointed out that instead of restricting the shifting of the pole to 3 feet away from the earlier location that the village elders agreed for, the DISCOM authorities had shifted the pole to a different location which is 8 feet away and in the process felled her coconut tree only with a view to benefit the illegal construction of some other resident of the area. She further argued that the

DISCOM authorities had not clarified what is 'Grama Kantam.' She contended that the whole residential area of the residents is called 'Grama Kantam' and that by definition it does not entitle the Village Panchayat to have possessory rights over the private land belonging to citizenry. She enclosed photocopies of some sale deeds in support of her contention that she is the owner of the land on which the DISCOM authorities had erected the pole. She also submitted a copy of the endorsement dated 26-06-2015 of the revenue authorities that it is not possible to survey her house site situated in Survey No. 39 as it is located in 'Grama Kantam' and cannot be surveyed.

7. From a perusal of the material filed and the arguments advanced during the course of the hearings, it is clear that the electric pole got damaged due to Hudhud Cyclone. In the course of restoration of supply, the DISCOM authorities had undertaken erection of a new cement pole at a place which is 8 feet away from the earlier location. The contention of the appellant is that this shifting was done only with a view to help another resident (incidentally a relative of the appellant with whom she apparently has some running disputes) of the area and at his behest. Her contention is that the other resident had actually constructed a parapet wall to his residence in violation of rules and that the action of the DISCOM authorities, in so far as it related to the shifting of the pole from the earlier location to the present location is concerned, favoured that resident. These contentions of the appellant are not tenable. During the course of restoration of supply, the DISCOM authorities are at liberty to have the right of way as determined and suggested by the local authorities. If the appellant feels that the DISCOM had erected a pole on her property, it is for her to prove conclusively that the site on which the pole is erected belongs to her. It was with a view to help her prove her ownership that it was advised during the course of the hearings that the survey of her house site be got done by her as she is claiming

ownership over the land. Her efforts to get the land surveyed apparently came to naught with the revenue authorities saying that the land cannot be surveyed as it is situated in 'Grama Kantam.' This development clearly shows that the issue being fought is one of ownership of land. Neither the CGRF nor this forum is equipped to sit in judgement over the ownership questions in civil matters. That is the job of Civil Courts and it is only they who can settle such matters. The DISCOM authorities can have right of way on any public land. As the appellant is laying a claim that the pole is erected on her private land, it is for her to prove conclusively that the land belongs to her. In the instant case, the appellant is not able to provide such conclusive proof. She is better off approaching a Civil Court in the matter rather than expecting this forum to sit in judgement, as it has no jurisdiction over such matters.

8. Her further grievance is that the DISCOM authorities had felled a coconut tree that was standing on her house site in the process. This contention also is not being countenanced by this authority in view of the fact that she has not been able to get her land surveyed to prove her point that the felled tree was standing on her property. The moment she is able to prove so, the DISCOM authorities shall be bound to take necessary action. In view of the refusal of the revenue authorities to get a survey conducted, this authority can only conclude that the land in question is public property and that the appellant has failed to prove her ownership. Therefore, the second question also is answered in favour of the DISCOM.

9. Before going into the third question, some points that are worth a discussion are now taken up. The photocopies of sale deeds filed by her are not being gone into at this stage as examining the documents would not reveal anything until and unless such an examination is accompanied by a survey result. Her contention that the

DISCOM authorities had shifted the location of the pole by 8 feet instead of the 3 feet that was authorized also is not being taken seriously, as it can be understood that the ground realities will dictate the ultimate course of action while undertaking works of this nature. It has to be understood that the restoration works were being done consequent to the havoc wreaked by a cyclone. The people carrying out the restoration work will have different pressures and deadlines to restore the supply rather than worry about the nuances of ownership of land. A prima facie conclusion that the land on which the restoration work is being done is public land is all that is needed for them to carry out the work. Their work cannot be held hostage to claims and counterclaims of ownership.

10. This authority is also not inclined to go into the definition of ‘Grama Kantam’ and the judgements related to it, as it is not relevant at this point. It is for the Civil Courts to interpret and take a call on such matters. As far as the DISCOM is concerned, what all it requires is conclusive proof that the land on which the pole is erected belongs to private property or that the tree felled by it stood on private land. As the appellant has not been able to prove conclusively either of these points, the DISCOM’s authorities are not at fault on account of what has been done by them. The appellant is at liberty to approach the appropriate Civil Court to prove her ownership and seek relevant redressal.

11. Coming to the third question, this authority finds nothing wrong with the decision of the CGRF. Hence, there is no need to interfere with the order.

12. Finally, an examination of the definition of “grievance” as provided for in Regulation 1 of 2004 is called for to determine whether or not the appellant has any

locus in raising the dispute in the first place. The definition of “grievance” as given in clause 2 of the said regulation, reads as under:

(f) “Grievance” means a complaint filed by the affected consumer;

A reading of this definition leads us to know what is a “complaint.” The definition of “complaint” in the said regulation is given as:

(d) “Complaint” means the letter or application filed with the Forum seeking redressal of grievances concerning the supply of electricity or the services rendered by the licensee.

A plain and harmonious reading of the above two definitions shows that an appellant should have a grievance about the “supply of electricity” or “the services rendered by the licensee.” Obviously this means that it has to be concerning the supply or services rendered to her. In the present case, the appellant has not been able to prove as to how the services being received by her have been adversely affected by the action or inaction of the DISCOM. Raising disputes before forums like this authority or the CGRF is nothing but indulging in forum shopping by the appellant. This cannot be allowed by this authority.

13. Therefore, the appeal of the appellant fails in toto and is dismissed.

14. This order is corrected and signed on this 18th day of September, 2015.

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

VIDYUT OMBUDSMAN

To

1. Smt. Somireddy Ramudamma, D.No. 1-1, Raja Veedhi, Banadhi Gramam,
Vepada (M) Vizianagaram District - 531 281
2. The Assistant Engineer, Operation, APEPDCL, Near Vallapudi Sub Station,
Vepada, Vizianagaram District - 535 281
3. The Assistant Divisional Engineer, Operation, APEPDCL, S. Kota, Near
Cambridge School, Vizianagaram - 535 145
4. The Divisional Engineer, Operation, APEPDCL, 1st floor, Vidyut Bhavan
Dasannapeta, Vizianagaram - 535 002

Copy to:

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