



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

:: Present ::

C. Ramakrishna

Date: 18-09-2015

Appeal No. 123 of 2013

Between

Sri. Bendi Jagga Rao, Cheekati Harijana Street, Sompeta Village & Mandal Srikakulam
District - 532 407

... Appellant

And

1. The AE/Operation/Sompeta/APEPDCL/Srikakulam District
2. The ADE/Operation/Sompeta/APEPDCL/Srikakulam District
3. The DE/Operation/Tekkali/APEPDCL/Srikakulam District
4. Sri. Voonna Ramanandam/Sompeta/Srikakulam District

... Respondents

The above appeal filed on 26-12-2013 has come up for final hearing before the Vidyut Ombudsman on 07-09-2015 at Vizianagaram. The appellant, as well as respondents 1 to 4 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 appellant about electric lines passing over his residential building posing a threat to his family. On approaching the

CGRF, as the appellant was asked to pay the line shifting charges, he approached this authority seeking redressal of his grievance.

3. The appellant stated in his appeal that he was granted a house site patta in the year 1984 by the Government and that he had subsequently constructed a house thereon; that the HT wires supplying electricity to a nearby cinema hall were running over his site; that about 15 years back, his pigs had died due to the accidental snapping and falling of the wire on them in his site; that since then he had been requesting the electricity authorities to reroute the wires to prevent such accidents in vain; that the electric lines are passing over at a mere height of 3 to 4 feet from the terrace of his newly constructed building and that there is every likelihood of a person going to the terrace accidentally getting electric shock; that on his complaining to the DISCOM, the CGRF had disposed of the complaint without even giving him an opportunity of being heard; and that he is not in a position to afford paying for the shifting of the electric lines supplying electricity to the cinema hall. The appellant submitted quite a few photographs in support of his submissions; two of which are annotated and reproduced below for an understanding of the contentions being raised.



4. Notices were issued for hearing the matter. The respondent ADE and AE in

their common written submission stated that the LT line passing over the property of the appellant supplies electricity to the cinema hall and that the said cinema hall's service was released way back in in the year 1958; that the appellant had been granted a patta in the year 1984 and had constructed a house on the site in the year 2011; that the root cause of the threat being posed by the overhead lines is the construction of the house by the appellant underneath the lines; that no danger is posed by the overhead lines at present; that for rerouting the supply to the theatre and avoid perceived danger for the appellant, the appellant has to make an application in the call centre and make necessary payment; and that as a temporary measure, adequate precautions have been taken by replacing existing cables with insulated cables and also raising the height of the wires to about 2.2 meters. They prayed that the appeal be set aside in view of the stubborn refusal of the appellant to pay the necessary rerouting charges. The respondents also filed a few photographs in support of their submissions; two of which are annotated and reproduced below for a proper understanding of the submissions.



5. During the course of the hearing, the appellants and the respondents confirmed

what they stated in writing. The appellant further submitted that he is not a “consumer” seeking shifting of his service from one place to another and that therefore he cannot be asked to pay for the rerouting charges. He also submitted that in view of his socio-economic conditions, he is not in a position to pay for the shifting charges being demanded by the DISCOM. The key points that arose for consideration in this appeal are:

- a. Whether or not the DISCOM is correct in expecting line shifting or rerouting charges from a citizen who is not the concerned consumer of electricity; and
- b. Whether or not the CGRF’s order is liable to be set aside.

6. Coming to the first issue, it is not in dispute that the appellant was granted a house site patta by the Government in the year 1984. It is also not in dispute that the cinema hall was released supply way back in the year 1958. From this, it is clear that the development and extension of residential dwellings in course of time is happening below the electric lines that were already existing. This is obviously necessitating the rerouting of the existing electric lines to remove the dangers they pose for the people residing in the new and upcoming residential dwellings. In the present case, it is the cinema hall which is the actual beneficiary of getting the supply. Long after it has been released supply, can it be asked to bear the cost of shifting of its supply lines, is the question that came up for discussion. Hence a notice was issued to the cinema hall and it was made the fourth respondent in the appeal. During the course of the hearings, the representatives of the cinema hall pleaded that they are not in a position to bear the cost of shifting the line now and that it is unfair to ask them to bear the cost of shifting of lines. On a deeper examination of the issue, it became clear that

such a demand on the cinema hall also cannot potentially be a one-off issue and that such demands can keep arising along with the extension of residential dwellings all around. Therefore, such a demand on the cinema hall by the DISCOM is found untenable. The DISCOM in response contended that in accordance with the terms and conditions of supply -- GTCS 2006, the person who is seeking the shifting of lines should bear the cost of the shifting. In this case, as it is the appellant who is seeking the shifting of lines, it is he who should bear the cost of shifting or rerouting of the lines. In support of this contention, the respondents relied on the judgement given by the CGRF and cited clauses 5.4.1.4 and 5.3.4 of the GTCS. The clauses are extracted below for ready reference:

- 5.4.1.4 The service line once laid shall not be transferred or shifted from one place to another except with permission of the Company. If a consumer desires to have the position of the existing service line altered the Company will take action for shifting of service in possible cases subject to the provisions in 5.3.4.

5.3.4 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.

From a plain reading of the above clauses it is clear that they govern a situation

wherein an existing consumer is seeking the shifting of lines that are supplying electricity to him. If a consumer seeks to reroute the supply to him while staying at the same premises or seeks shifting of the connection to an altogether different place, because of his relocating elsewhere, these clauses apply. They do not govern a case wherein a citizen -- whether or not he is a consumer of electricity -- is seeking rerouting of supply lines that are posing a threat to his life and property. In the course of supply of electricity to a consumer, if the DISCOM's action or inaction is posing a threat to the life and property of another citizen who is not the direct beneficiary of the supply, the DISCOM is bound to take necessary action to see to it that its actions / inaction do not impinge on the rights of that citizen. It is a citizen's fundamental right to have a peaceful right to life. Just because a DISCOM is having an already existing supply line at a place, if it expects the Government not to grant pattas to those who deserve it and expects that those who are granted the pattas should not construct houses as its supply lines are existing prior to their being granted the pattas, then that constitutes a violation of the fundamental right granted by the Constitution of India under article 19(1)(e) in so far as those expectations are preventing a citizen from residing and settling in any part of India. No citizen can be made to live under constant fear or threat to his life and property. A DISCOM's commercial business is not more sacrosanct than the life and liberty of a citizen guaranteed by the Constitution of India. Therefore, the first issue is held against the DISCOM and in favour of the appellant. The appellant cannot be asked to pay for rerouting charges.

7. Coming to the second issue that is framed, the CGRF's order is liable to be set aside on a couple of grounds. The first being that it has not given a reasonable opportunity of being heard to the appellant. The CGRF ought to have heard the appellant complainant and then disposed of the matter. Secondly, the CGRF had

incorrectly interpreted the clauses of the GTCS in holding that the appellant complainant shall pay the line shifting charges. For these two reasons, the CGRF's order is liable to be set aside.

8. Therefore, it is hereby ordered that:

- the order issued by the CGRF is set aside as it is bereft of merit;
- the respondents shall undertake the line shifting, at DISCOM's cost, within 15 days from the date of receipt of this order so that the threat to the appellant's life and property is removed; and
- the respondents shall report compliance thereof within 15 days from thereafter.

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

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

VIDYUT OMBUDSMAN

To

1. Sri. Bendi Jagga Rao, Cheekati Harijana Street, Sompeta Village & Mandal
Srikakulam District - 532 407

2. Sri. Voonna Ramanandam, Mg. Partner, Shiva Picture Palace, Near Gram

Panchayat Office, Sompeta, Srikakulam District - 532 407

3. The Assistant Engineer, Operation, Sompeta, APEPDCL, Srikakulam District - 532 263
4. The Assistant Divisional Engineer, Operation, Sompeta, APEPDCL, Srikakulam District - 532 263
5. The Divisional Engineer, Operation, APEPDCL, Tekkali, Srikakulam District - 532 201

Copy to:

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