



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

:: Present ::

C. Ramakrishna

Date: 08-01-2016

Appeal No. 26 of 2015

Between

Sri. K. Bhujanga Reddy, D.No. 2-15, Polamuru, Anaparthi Mandal, East Godavari

District - 533 342

... Appellant

And

1. The AE/Operation/APEPDCL/Anaparthi/East Godavari District
2. The AAO/ERO/APEPDCL/Ramachandrapuram/East Godavari District
3. The ADE/Operation/APEPDCL/Anaparthi/East Godavari District
4. The DE/Operation/APEPDCL/Ramachandrapuram/East Godavari District

... Respondents

The above appeal filed on 19-11-2015 has come up for final hearing before the Vidyut Ombudsman on 28-12-2015 at Rajahmundry. 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 consumer about an inspection that was conducted by the DISCOM's officers on 04-03-2013 and the consequential theft case booked against him.

3. The appellant stated in his appeal that he is having two service connections bearing numbers 1231 and 1339; that on the inspection conducted, the DISCOM's officers did not notice any fault on his part ; that only acting on mere suspicion, the DISCOM's officers took away the meter of service connection 1231 for testing purpose; that they had incorrectly considered the entire load of their premises on the service connection bearing number 1231; and that on the meter testing day, an illegal fine of Rs. 30,663/- was imposed on him. He enclosed copies of the inspection report and the notices received by him along with the order of the CGRF in the matter. The appellant sought an order directing the refund of the monies paid by him subsequent to the inspection.

4. Notices were issued for hearing. The respondent DE stated in his written submission that the service number bearing number 1231 of the consumer was inspected on 04-03-2013 and an additional load case was booked while referring the meter for testing; that on testing the meter on 26-03-2013, it was found that the consumer had indulged in theft of energy and hence a case of theft of energy was booked and notices of provisional assessment for an amount of Rs. 24,663/- and regularization of additional load for an amount of Rs. 6,525/- were issued on 30-03-2013; that while the consumer paid the provisional assessment in full, the additional load was not regularized; that the consumer had approached the CGRF in CG

No. 187/2014; that on the CGRF's final order, the services of the consumer were inspected on 22-09-2015 and it was found that the connected load on service connection 1231 was 2335 Watts and on service connection 1339 was 3474 Watts; that hence, a notice for regularizing the additional load was given; and that the provisional assessment amount paid by the consumer cannot be refunded, as the consumer had indulged in theft of energy.

5. The respondent ADE and AAO also filed their written submissions to the same effect.

6. During the course of hearing on 28-12-2015, the appellant and the respondents confirmed what they stated in writing. The appellant went on to submit that the case of theft was wrongly foisted on him by the DISCOM and that an impression was created during the inspection, to make him believe that no case of wrongdoing on his part was being booked against him; that the subsequent behaviour of the DISCOM's officers ran counter to the impression created by them; that the case of theft was wrongly foisted on him; that therefore, the amount that was collected from him consequent to the notice of provisional assessment needs to be refunded and the notices for regularization of additional load also need to be withdrawn.

7. On a consideration of the rival submissions, the key points that arose for consideration in this appeal are:

- a. Whether or not the appeal can be entertained at this stage by this authority; and
- b. Whether or not there is any need to interfere with the order of the CGRF.

8. Coming to the first issue, it needs to be seen that the appellant is contesting about the consequential actions taken by the DISCOM, on an inspection that was conducted on 04-03-2013 in his premises. An inspection was conducted and a case of theft of energy was booked against the consumer. This is a matter that falls squarely within part XIV of the Act. Clause 8(1)(a) of Regulation 1 of 2004, which is extracted below for ready reference, prohibits this authority from looking into any matter that is the subject matter of either an existing or proposed proceeding in respect of a matter which falls within part XIV of the Electricity Act. Theft of energy case falls squarely within Part XIV of the Act and hence this authority cannot entertain a representation in that regard.

8. FUNCTIONS OF VIDYUT OMBUDSMAN:

(1) The Vidyut Ombudsman shall discharge the following functions:

- (a) The Vidyut Ombudsman may receive and consider all representations filed by the Complainant for non-redressal of the grievance by the Forum under Sub-Section (5) of Section 42 of the Act. Notwithstanding the above the Vidyut Ombudsman shall not entertain any representation in regard to matter which are subject matters of existing or proposed proceedings before the Commission or before any other authority including under part X, XI, XII, XIV and XV of the Act.

Therefore, the first issue is answered against the appellant.

9. Coming to the second issue that is framed, the CGRF also ought not to have entertained the complaint in the first place. It had, incorrectly, entertained the complaint and sat in judgement over it in spite of it being a matter ex juris. This is not at all supportable and hence the order of the CGRF is liable to be set aside.

10. Therefore, it is hereby ordered that:

- the order issued by the CGRF is set aside as it is ex juris; and

- the appeal filed by the appellant is dismissed as it cannot be entertained here.

11. However, it is made clear that the appellant is free to pursue the remedies available to him within law. The notice by the DISCOM, for regularization of additional load consequent to the CGRF's order, however is not bad in law as the power of issuing such a notice is always vested in the DISCOM's officers, even without a specific order by the CGRF.

12. This order is corrected and signed on this 8th day of January, 2016.

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

VIDYUT OMBUDSMAN

To

1. Sri. K. Bhujanga Reddy, D.No. 2-15, Polamuru, Anaparthi Mandal, East Godavari District - 533 342
2. The Assistant Engineer, Operation, APEPDCL, D.No. 2-316, 33/11KV Sub-Station, Anaparthi, East Godavari District - 533 342
3. The Assistant Accounts Officer, ERO, APEPDCL, D.No. 13-1-30/9, Opp: Head Post Office, Main Road, Ramachandrapuram, East Godavari District - 533 255
4. The Assistant Divisional Engineer, Operation, APEPDCL, D.No. 6-119, Near Narayana Reddy Eye Hospital, Anaparthi, East Godavari District - 533 342

5. The Divisional Engineer, Operation, APEPDCL, D.No. 26-1-146, Sri Sai
Srinivas Complex, S.S.Varam Road, Ramachandrapuram - 533 255

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