



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

:: Present ::

C. Ramakrishna

Date: 19-02-2016

Appeal No. 28 of 2015

Between

**Sri. Rev. Fr. David Tenali, Parish Priest, St. Joseph's Church, Thangellamudi, Eluru,
West Godavari District.**

... Appellant

And

- 1. AE/Operation/APEPDCL/Denduluru/West Godavari District**
- 2. ADE/Operation/APEPDCL/Rural/ Eluru/West Godavari District**
- 3. AAO/Operation/ APEPDCL/Rural/Eluru/West Godavari District**
- 4. DE/Operation/APEPDCL/Eluru/West Godavari District**

... Respondents

The above appeal filed on 03-12-2015 has come up for final hearing before the Vidyut Ombudsman on 15-02-2016 at Eluru. 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 Vidyut Ombudsman passed the following:

AWARD

2. The appeal arose out of the complaint of the consumer about non conversion of his agricultural service from paying to free category.

3. The appellant stated in his appeal that the DISCOM had created the problem in the year 2008; that the representations made by him in this regard had remained unanswered; that his service connection has been in non-paying category till September, 2008; that suddenly the DISCOM had changed it into paying category without any notice or intimation; that the Society entered into a long drawn correspondence with the DISCOM's authorities and such correspondence ultimately culminated in their representation to the CGRF; that in spite of the CGRF ordering that the issue be resolved immediately without inviting further correspondence, the conversion to non-paying category was not done by the respondents till date; and that the Society does not come under IT payer category and hence is entitled to free power for its LT V service connection. The appellant enclosed a host of correspondence in support of his submissions.

4. Notices were issued for hearing the matter. None of the respondents submitted any written submissions. During the course of the hearing on 11-01-2016, the respondents stated that the service of the appellant is not converted to free category in view of the Society, of which he is the representative, being an income tax assessee and that the non-conversion is in accordance with the provisions of the tariff orders issued by the Hon'ble Commission from time to time. The appellant on the other hand contended that the service connection that exists in the name of Bishop John Mulagada actually belongs to the Roman Catholic Diocese of Eluru, which is a registered society

under the Societies Registration Act; that the service connection is being used to further the main purposes of the society i.e., feeding the poor and orphans and providing free education to the weaker sections; that the society is not an income tax payer at all and by virtue of that is entitled to have its LT V connection categorized as a non-paying service connection.

5. On a perusal of the material papers filed and the oral submissions made by both the sides, the key points that arose for consideration in this appeal are:

- a. Whether or not the appellant is entitled to have his LT V category service connection in non-paying category; and
- b. Whether or not the CGRF's order needs to be interfered with in this case.

6. Coming to the first issue, it is seen that the person who appeared before this authority is one Fr. Gabriel Thota while the service connection is existing in the name of Bishop John Mulagada and the appeal proper was filed by one Rev. Fr. David Tenali, Parish Priest of St. Joseph Church, Thangellamudi. When questioned whether he is authorized to present himself and argue the matter before this authority, he informed that he is authorized to do so as he is now the officiating Parish Priest at St. Joseph Church, Thangellamudi and that the service connection exists in the name of the Bishop of Eluru who is the head of the Roman Catholic Diocese of Eluru. He offered to submit the relevant paper in support of this submission by the next hearing date and he did so accordingly. On a perusal of the record it is evident that the Roman Catholic Diocese of Eluru is a registered society and it has obtained the LT V connection in Thangellamudi in furtherance of its activities there. The diocese is also an income tax

assessee. A copy of the return filed by them for the assessment year 2014-15 shows that they have returned a gross total income of Rs. 1,05,19,043/- and it was assessed to pay a tax of Rs. 39,01,109/-. Thus, it is evident that the diocese is an income tax payer. The appellant stated that the diocese is exempted from paying income tax and that it is only carrying out charitable work and hence its LT V service connection should be allowed to be in non-paying category. Even if the society is otherwise entitled for total exemption from payment of income tax by virtue of any government order, what matters for the purpose of Electricity Act, 2003 and the rules, regulations and orders made thereunder, is whether or not the diocese is an assessee. That's all and no more. As seen from the record produced, it is evident that the diocese is an income tax assessee. Hence, in accordance with the provisions of the tariff order issued from time to time by the Hon'ble Commission, the diocese is not entitled to have its LT V category connection under non-paying category. An extract of the relevant portion in the tariff order for the year 2008-09 is given below for ready reference:

L.T. CATEGORY - V(A) - AGRICULTURAL

Category	Purpose	Fixed charges	Energy Charge Ps/Unit
With DSM measures	Dry Land Farmers (Connections<= 3 Nos.)		0
	Wet Land Farmers (Holdings<=2.5 Acres)		0
	Dry Land Farmers (Connections > 3 Nos.)	*Rs.210/HP/Year	20
	Wet Land Farmers (Holdings >2.5 Acres)	*Rs.210/HP/Year	20
	Corporate Farmers & IT Assesses		100
Without DSM measures	Dry Land Farmers (Connections<= 3 Nos.)	*Rs.210/HP/Year	20
	Wet Land Farmers (Holdings<=2.5 Acres)	*Rs.210/HP/Year	20
	Dry Land Farmers (Connections > 3 Nos.)	*Rs.525/HP/Year	50
	Wet Land Farmers (Holdings >2.5 Acres)	*Rs.525/HP/Year	50
	Corporate Farmers & IT Assesses		200
	* Equivalent flat rate tariff		

7. But for the tariff change over the years, the corporate farmers and IT assesseees have been continued to be in paying category by the successive tariff orders. Therefore, the appellant is not entitled to seek conversion of his LT V service connection to non-paying category. Though the appellant submitted that the long drawn correspondence with the respondents in this regard did not yield any response from them, the record produced did not substantiate his claim about the correspondence being “long drawn”. Only a copy of the unsigned letter dated 16-07-2012 was produced before this authority. From a copy of the letter dated 31-01-2013 issued by the DE/Eluru (filed by the appellant herein) it is evident that the respondents had acted on the appellant’s representations and held the issue against him. In the light of all this, the first issue is held against the appellant.

8. Coming to the second issue that is framed, the CGRF only said that the issue be not dragged for long and be settled immediately without inviting further correspondence. While the CGRF’s order is dated 06-12-2012, the DE replied to the appellant in January, 2013 that he is not entitled for non-paying category power under LT V. Therefore, the respondents had acted on the order of the CGRF, and ultimately rejected the request of the appellant. As for the order issued by the CGRF, there is nothing that needs to be interfered with.

9. Therefore, the appeal filed by the appellant is dismissed on merits.

10. The respondents are free to enforce collection of pending dues, if any, from the service connection of the appellant.

11. This order is corrected and signed on this 19th day of February, 2016.

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

VIDYUT OMBUDSMAN

To

1. Sri. Rev. Fr. David Tenali, Parish Priest, St. Joseph's Church,
Thangellamudi, Eluru, West Godavari District.
2. The Assistant Engineer, Operation, APEPDCL, Denduluru, West Godavari
District - 534 432
3. Assistant Divisional Engineer, Operation APEPDCL, Rural, Eluru, West
Godavari District - 534 002
4. Assistant Accounts Officer, ERO, Rural, Eluru, West Godavari District - 534
001
5. Divisional Engineer/Operation, APEPDCL, Eluru, West Godavari District -
534 002

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