



**BEFORE THE VIDUYUT OMBUDSMAN
Andhra Pradesh :: Amaravathi**

:: Present ::

N. Basavaiah, B.Sc. B.L.

Date: 07-12-2021

Representation No.24 of 2021-22

Between

Dr. C.N. Rao, D.No.9-10-3, Giddilane, Gandhinagar, Kakinada, E.G. (Dist) 533004

.... Complainant

And

1. The Assistant Engineer / Operation / APEPDCL / Kakinada-D6
2. The Assistant Accounts Officer / ERO / APEPDCL / Kakinada
3. The Assistant Divisional Engineer / Operation / APEPDCL / Town-II / Kakinada
4. The Divisional Engineer / Operation / APEPDCL / Kakinada **....Respondents**

ORDER

The above representation came up for final hearing, by way of Video Conferencing, before me at the office of the Viduyut Ombudsman, Vijayawada on 29-11-2021. The complainant and the respondents were present. Having considered the representation and submissions of both sides, the Viduyut Ombudsman passed the following:

1. This representation has been filed by the complainant against the order ***dated 09th day of September, 2021 in C.G.No.47/2021, Visakhapatnam***, passed by the ***Forum for Redressal of Grievances of the Consumers in Eastern Power Distribution Company of A.P Limited, Visakhapatnam***, whereby and where-under the above Forum dismissed the complaint filed by the complainant alleging grievance against the revised power bills issued by the second respondent pertaining to the Service Connection No.1455440502031048 of Kakinada.

2. The facts leading to file this representation are as follows: There is no dispute that the complainant got a 'Solar Power Generation Plant' installed to his premises with the above service connection and got a 'Bi-directional Solar Meter' fixed by the Licensee (APEPDCL), prior to May, 2018, and a new 'Bi-directional Solar Meter' in the place of the old meter was fixed on 25-05-2018. Having received a letter dated 05-10-2020 from the first respondent, along with check readings, informing that the above service was short billed as the reading of the power injected into the grid (export) as well as the power taken from the grid (import) (power consumed by the consumer) was wrongly furnished, the second respondent sent a letter dated 24-12-2020 to the complainant demanding him to pay Rs.53500/-, i.e., Rs.33259/- being the shortfall amount for the billing months commencing from June, 2018 to September, 2020 and Rs.16602/- being the amount paid to the complainant through credit RJS and through the Bank due to the above fault, besides Rs.3639/- being cc charges for three billing months from October, 2020 to December, 2020, within 15 days. Having paid the above amount under protest, the complainant has filed the complaint alleging that he was never informed by the respondents about the faultiness of the meter, that for the fault of the department people, he cannot be penalised and that therefore, he prayed to order for refund of the above amount paid by him under protest.

3. Exs.A1 to A7 and B1 to B5 were marked. After considering the material available on record, the Forum passed the order as stated supra. Not satisfied with the above order, the complainant filed this representation. No further evidence has been adduced before this authority.

4. The complainant has submitted that as some CC bills show that amount is due to him from the licensee and as the CC bill dated 12-08-2020 shows that no amount is due to the licensee from him, and as such, the notice dated

14-12-2020 issued to him is incorrect. He further submitted that he paid the amount under protest as there was a threat of disconnection of supply, that as per section 56 (2) of the Electricity Act, the entire claim, as per the above notice, of the opposite party is barred by time and that therefore, he prayed to allow his representation and to grant the relief claimed by him.

5. The respondents have submitted, as per their case, that as the export and import readings in the solar meter were wrongly furnished by the meter reader, this problem has arisen and that their claim is legal and correct.

6. The following point is framed for consideration:

Whether the representation can be upheld?

7. Point: This representation is to be settled on the basis of the pleadings. The complainant alleges in his complaint that for the fault of the department people, he cannot be penalised. It is the case of the respondents that the consumer was under billed due to furnishing wrong information as to the export and import readings of the solar meter. The complainant, in his complaint, did not deny the above case of the respondents. He did not even dispute the above case of respondents before me. There is no particular reason forthcoming as to why the licensee made a false claim against the complainant. I find no compelling reason to discard the above case of the respondents, and as such, I hold that the case of the respondents is probable. The complainant did not show me any provision of law or cite any decision to accept his pleading touching his non-liability on the ground that there was no fault on his part. Even the respondents did not show me any specific provision of law or cite any decision to the effect that the licensee is authorized to give a demand notice to any consumer like in the present facts of this case.

8. Section 56 (2) of the Electricity Act says that no sum due from any consumer shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied. It is not the case of the respondents that the amount due from the complainant has been shown continuously as recoverable as arrear of charges for electricity supplied. So, I am inclined to look into the limitation aspect covered by section 56 (2) of the Electricity Act, 2003 as it appears the claim has been made for more than two years in this case. In Assistant Engineer (D1) Ajmer Vidyut Vitran Nigam Limited and Another (vs) Rahamtullah Khan alias Rahamjulla, Civil Appeal No.1672/2020 arising out of SLP (civil) No.5190/2019 (un-reported decision), it is held by the Hon'ble Supreme Court that sub-section (1) of Section 56 of the Electricity Act,2003 confers a statutory right to the licensee company to disconnect the supply of electricity if the consumer neglects to pay the electricity dues, and this statutory right is subject to the period of limitation of two years provided by sub-section (2) of Section 56 of the Act and that an additional demand on 18-03-2014 for the period July, 2009 to September, 2011 is barred by the limitation of two years under section 56 (2) of the 2003 Act. It is further held at the end of paragraph-7 of the judgment that if the licensee company were to be allowed to disconnect electrical supply after the expiry of the limitation period of two years after the sum became 'first due', it would defeat the object of Section 56 (2) of the Act, 2003. So, it is clear from the above decision coupled with section 56 (2) of the Act that an additional/supplementary demand for any sum cannot be made or recovered under the above section beyond two years from the date when such sum became first due.

9. The licensee company raised a supplementary/additional demand in this case on 24-12-2020 for the billing months commencing from June, 2018 to September, 2020. As per the above decision, the limitation period of two years under section 56 (2) had expired for the period from June, 2018 to November, 2018, but the additional demand from December, 2018 onwards is within time. The relief sought for by the complainant is for refund of the entire amount of Rs.53,500/- paid by him. I am unable to accept the submission of the complainant that the notice given to him is incorrect, but I partly accept his submission for the period from June, 2018 to November, 2018. For the above reasons, I am of the view that the complainant is not entitled for the entire relief as prayed for by him but is entitled for a portion of the relief for the period, June, 2018 to November, 2018 as per the revision made by the second respondent. The statement produced by the respondents as to export and import readings etc., shows that the difference of units between import and export readings for the above period is 1805 units. The respondents submitted that as per the relevant tariff order, the energy charges for one unit is Rs.5.85 ps. Thus, the total amount for the above period will be Rs.10559-25 ps (1805 units x Rs.5.85). Hence, the complainant is entitled to seek for refund of Rs.10559-25 ps, rounded to Rs.10559/-, from the opposite party. This representation can be upheld partly. This point is, thus, answered.

10. In the result, I hold that the complainant is entitled for refund of Rs.10,559/- from the licensee. The licensee company is directed to refund the above amount of Rs.10,559/- to the complainant by way of adjustment in the subsequent bills commencing from January, 2022. It is needless to mention that the licensee company may take recourse to any remedy available in law for recovery of the

additional demand for the period, June, 2018, to November, 2018. This representation is, thus, partly upheld. No costs.

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

This order is corrected and signed on this the 7th day of December, 2021

Sd/- N. Basavaiah
VIDYUT OMBUDSMAN-A.P

To

1. Dr. C.N. Rao, D.No.9-10-3, Giddilane, Gandhinagar, Kakinada, E.G. (Dist) 533004
2. The Assistant Engineer / Operation / APEPDCL / Kakinada-D6
3. The Assistant Accounts Officer / ERO / APEPDCL / Kakinada
4. The Assistant Divisional Engineer / Operation / APEPDCL / Town-II / Kakinada
5. The Divisional Engineer / Operation / APEPDCL / Kakinada

Copy To:

6. The Chairperson, 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.