



BEFORE THE VIDYUT OMBUDSMAN
Andhra Pradesh :: Amaravathi

:: Present ::

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

Date: 18-11-2021

Representation No.25 of 2021-22

Between

Padala Vikas Durga Sureddy, S/o. Chiranjeevi Reddy, Being minor represented by the Mother & natural guardian Padala Anupama, Plot No.403, Sai Durga Residency, A.P.H.B. Colony, Tadepalligudem, W.G. Dist ... Complainant

And

1. The Assistant Engineer / Operation / APEPDCL / Tadepalligudem-SS
2. The Assistant Divisional Engineer / Operation / APEPDCL / Tadepalligudem-Town
3. The Divisional Engineer / Operation / APEPDCL / Tadepalligudem
4. Gadi Sujatha Alias Padala Sujatha, D.No.9-143/3, Pentapadu (V), W.G. Dist ... Respondents

ORDER

The above representation came up for final hearing, by way of Video Conferencing, before me at the office of the Vidyut Ombudsman, Vijayawada on 09-11-2021. Sri P. Bhaskara Narasimha Murthy, advocate for the complainant, and the respondents were present. Having considered the representation and submissions of the parties present, the Vidyut Ombudsman passed the following:

1. This representation has been submitted by the complainant after the ***Forum for Redressal of Grievances of the Consumers in Eastern Power Distribution Company of A.P Limited, Visakhapatnam rejected*** the complaint, under the clause 10.2(a) of the Regulation 3 of 2016, ***in C.G.No.150/2020 on 03rd day of September, 2021.***
2. The complainant is a minor being represented by his mother (Smt.Anupama) as his natural guardian and next friend. Releasing an electricity service connection in the

month of March,2020 for the premises bearing door No.9-143/3 of Pentapadu village by the licensee in the name of fourth respondent during the pendency of a partition suit comprising the above premises, is the cause of action for filing the present complaint. One Padala Chiranjeevi Reddy, as an absolute owner of the above property by virtue of registered gift deeds executed in his favour by his mother on 13.3.2008 and 29.06.2009, executed a registered gift deed dated.28.04.2012 in favour of the fourth respondent, Smt.Sujatha as his wife, with respect to the above premises and other properties. The complainant filed the partition suit in O.S.No.67/2015 before the District court, Eluru against 10 persons including the fourth respondent herein by alleging that Smt. Anupama and he are wife and son, of Sri Padala Chiranjeevi Reddy, respectively, and that the above suit properties are his ancestral properties. The complainant prayed to terminate the above service connection released in the name of the fourth respondent on the ground that it was obtained illegally. The case of the respondents 1 and 2 is that the above new connection was released for the above premises as nobody objected at that time and that they are not parties to the above partition suit. The fourth respondent denied the relationship of the complainant with Padala Chiranjeevi Reddy, as stated in the complaint, and stated that she is the legally wedded wife of Padala Chiranjeevi Reddy and had obtained the service connection legally and that the complainant is not a consumer and not entitled to file this complaint..

3. Ex.A1 to Ex. A4 and Exs. B1 to Exs.B13 were marked. After considering the material available on record, the Forum rejected the complaint as stated supra. Not satisfied with the above order, the complainant submitted this representation.

4. Both sides submitted their respective cases. The advocate for the complainant mainly submitted that though the suit for partition is pending and though a legal notice under the original of Ex.A2 was given to the first respondent regarding the pendency of suit, giving the electricity service connection in the name of the fourth respondent is illegal and prayed to grant the above relief claimed. The first respondent, initially, submitted

that he did not receive any notice but again submitted that he assumed charge subsequently. Sri.Chiranjeevi Reddy, on behalf of the fourth respondent, appeared and supported the case of the fourth respondent.

5. The following point is framed for consideration:

Whether the representation can be upheld?

6. Point: To attract the clause 10.2(a) of the Regulation 3 of 2016, another proceeding in respect of same matter must be pending between the same complainant and the licensee before any court etc. As the licensee is not a party to the above partition suit pending between the complainant and others, we cannot reject this complaint under the above clause. Now, I have to decide this case on merits. In this case, both the complainant and the fourth respondent are claiming their rights through Sri.Chiranjeevi Reddy. Since the Forum allowed the 4th respondent to file her response in this case against the complaint, I am inclined to consider her submission touching the aspect of the inherent jurisdiction of the Forum and this authority. Section 42(7) of the Electricity Act, 2003 says that the Ombudsman shall settle the grievance of the consumer in such manner as may be specified by the state commission. As per the provisions of the APERC Regulation No.3/2016, the complaint for redressal of grievances against the licensee, is to be submitted before the Forum or this authority by complainant. So, the main question to be seen in this case is whether Sri Padala Vikas Durga Sureddy, who filed the complaint, will come within the meaning of the word "complainant" given in the Regulation No.3/2016 and his grievance can be settled? In view of the above, it is necessary to go through the meanings of the words "grievance" and "complainant", given under rules 2.7 and 2.4 of the Regulation 3/16, and they are as follows;

2.7 "Grievance" means consequence (s) of any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance or failure of performance of a duty under the Act or the Reform Act or the Rules or the Regulations made there-

under or any policy directions or orders of the Commission or any other law for the time being in force, by the distribution licensee by which a complaint is aggrieved.

2.4 "Complainant" means and includes the following who have a grievance as defined in the Regulation

- a) A consumer as defined under Clause (15) of Section 2 of the Act
- b) An applicant for a new electricity connection
- c) Any registered consumer association
- d) Any unregistered association or group of consumer, where the consumer have common or similar interests and
- e) An occupier of a premise to which electricity is or has been supplied by a Licensee:
- f) In the case of death of consumer, his/her legal heir(s) or representative (s).

There is no material available on record to hold that Padala Vikas Durga Sureddy will fall under any one of the sub clauses from (b) to (f) of the Clause 2.4 of the Regulation 3/2016 to treat him as 'complainant' entitled to file this complaint. Now, it is to be seen whether the above person is a consumer or not, as per the above sub-clause (a)? So, it is necessary to go through the definition or meaning of the word "consumer" given in section 2(15) of the Electricity Act, 2003 and it runs as follows:

"Consumer" means any person who is supplied with electricity for his own use by licensee or the Government or by any other person this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be;

Sri.Padala Vikas Durga Sureddy is not the person, who is supplied with electricity for his

own use by the distribution licensee. It is not his case that his premises are connected for the time being for the purpose of receiving electricity with the works of the licensee. So, we can hold that Sri. Padala Vikas Durga Sureddy is not a consumer as per the meaning given under section 2(15) of the Electricity Act, 2003 and as such, we cannot treat him as "complainant" within the purview of the clause 2.4 (a) of the Regulation 3/2016. Therefore, I conclude that Sri. Sri.Padala Vikas Durga Sureddy will not fall within the meaning of the word "complainant" given under the above clause of the Regulation No.3/2016. Once it is held that Sri. Padala Vikas Durga Sureddy, who filed the complaint, will not come within the meaning of the word "complainant" as stated supra, his alleged grievance cannot be redressed by the Forum or by this authority. I find some merit in the submission made on behalf of the fourth respondent touching the jurisdiction aspect.

7. However, I am inclined to consider the submissions made on behalf of the complainant. Exs.B1 to B13 prima facie show that the fourth respondent as the owner of the above premises has been in occupation of the same prior to releasing the service connection. So, we cannot conclude that the licensee committed any illegality in releasing the service connection in the name of the fourth respondent. According to the complainant, pendency of the above partition suit is a bar for the licensee to release service connection in this case. The complainant is unable to show me any provision in the Act, or the Rules or the Regulations made there- under or any policy directions or orders of the Hon'ble commission or any other law to the effect that pendency of the above partition suit is a bar for the licensee to release service connection in the present facts of this case. Issuing a legal notice informing the licensee that a partition suit is pending with respect to the above premises, without any prohibitory orders by civil court, in my view, does not prohibit the licensee from releasing the service connection to a person producing documents of title and possession over that premises. The relief seeking in this case is like a prayer for mandatory injunction against the distribution

licensee. Such a type of remedy is not provided in the Act, 2003 or any regulation made there-under. To attract the meaning of "grievance" given under rule 2. 7 of the Regulation No.3/2016, it is to be shown by the complainant that there was any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance or failure of performance of a duty under the Act or the Reform Act or the Rules or the Regulations made there-under or any policy direction or orders of the Commission or any other law for the time being in force, by which he is aggrieved. The material on the above aspect is lacking in this case. So, I am of the view that the grievance as alleged in the complaint will not come within the meaning of the word 'Grievance' given under the clause.2.7 of the Regulation No.3/2016. As already suit is pending, the complainant has an opportunity to seek the above relief before the civil court. Therefore, I hold that Sri. Padala Vikas Durga Sureddy, who filed the complaint, will not fall within the meaning of the word "complainant" given under the Clause.2.4 of the Regulation No.3/2016, and the allegations made in the complaint do not attract the meaning of "Grievance" given under the clause 2.7 of the Regulation 3/2016. It is needless to mention that the action on the part of the licensee in this case is subject to the final result of the suit and that the fourth respondent will not acquire any title over the above premises only on the basis of releasing service connection to the above premises by the licensee. For the above reasons, I am of the view that this representation cannot be upheld and is liable to be dismissed. This point is thus answered.

8. In the result, I dismiss the representation without costs.

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

This order is corrected and signed on this the 18th day of November, 2021.

Sd/- N.Basavaiah
VIDYUT OMBUDSMAN, AP

To

1. Padala Vikas Durga Sureddy, S/o. Chiranjeevi Reddy, Being minor represented by the Mother & natural guardian Padala Anupama, Plot No.403, Sai Durga Residency, A.P.H.B. Colony, Tadepalligudem, W.G. Dist
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5. Gadi Sujatha Alias Padala Sujatha, D.No.9-143/3, Pentapadu (V), W.G. Dist

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.