



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

:: Present ::

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

Date: 10-08-2021

Representation No.15 of 2021-22

Between:

M. Rupavathi, D.No.4-2175/3, Greampet, Vellore Road, Chittoor

... Complainant

And

1. Assistant Accounts Officer/O/Chittoor Town
2. Dy. Executive Engineer/O/Chittoor CCO
3. Executive Engineer/O/Chittoor Town

... 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 06-08-2021. The complainant and the respondents 1 to 3 were present. Having considered the representation and submissions of the above parties present, the Vidyut Ombudsman passed the following:

1. This representation has been preferred by the complainant against the order ***dated 2nd day of June, 2021 in C.G.No:87/2020-21/Tirupati Circle,*** passed by the ***Forum for Redressal of Consumer Grievances in Southern Power Distribution Company of A.P Limited, Tirupati,*** whereby and where-under the above Forum, dismissed the complaint on the grounds that the complaint can be rejected as per clause 10(2) (a) of the Regulation No.3/2016 as the matter is pending before the Hon'ble High Court in respect of payment of pole tax included in the CC bills and that the complainant does not fall

within the definition of consumer as per sub-section (15) of Section 2 of the Electricity Act, 2003 and within the purview of clause 2.4 of Regulation No.3 of 2016.

2. The facts not in dispute are that the premises bearing House No.4-2175/3 with electricity service connection No.5112302001862 of Chittoor Town standing in the name of one late G.Narasimhulu Reddy was given on lease by the complainant to one Venugopal Naidu (deceased) and M.V. Ramesh Kumar to establish dish cable network in 2004, that changing the service category, the licensee started including pole rental charges in the cc bills, that W.P.No.10423/2009 has been filed by the above surviving tenant, Ramesh Kumar, before the Hon'ble High Court with respect to the claim of the licensee as to collection of pole tax charges of Rs.28,117/ from 2007 to may 2009 and is still pending, that on 27-09-2017, AE/O/ Greampet served a notice upon the complainant stating that Rs.1,60,532/- is due towards pole tax and surcharge interest from 2007 onwards, that as only Rs.27,000/- out of Rs.1,60,532/- was paid by the above tenant, the service connection was disconnected for non-payment of the remaining amount due and that thereafter, the complainant filed the complaint alleging that the above surviving tenant, without any information, shifted the dish cable connection to another location, that when she approached the above tenant, he behaved high handedly without paying any amount including rents and that therefore, she prayed to pass orders for restoration of power supply and for withdrawal of the above pole tax amount etc.

3. No oral or documentary evidence was adduced before the Forum. The Forum, on the basis of material available on record, dismissed the complaint as stated supra. Not satisfied with the above order, the complainant preferred this representation.

4.The complainant has submitted that she being the widowed daughter in law of late G.Narashmulu Reddy is the sole legal heir to succeed the above leased premises, that the tenant is alone liable to pay the pole tax amount due to the respondents and that

she has no means to pay the amount claimed by the opposite parties. She prayed to grant reliefs claimed in the complaint and do justice to her .The respondents admitted the relationship of the complainant with the deceased G.Narashmulu Reddy but supported the order of the Forum. They submitted that there is no agreement between the licensee and the tenants, and the sum due has been shown continuously as recoverable as arrear of charges.

5.The following point is framed for consideration:

Whether the complainant is entitled to any relief?

6. Point: The reasons assigned by the Forum for dismissal of the complaint are not legal and correct. Regulation No.3/2016 does not contain any words to indicate that a consumer as defined under clause (15) of section 2 of the Act is alone competent to file a complaint. The exhaustive explanation of the meaning of "Complainant" is given under the clause 2.4 of the Regulation No.3/2016. Since the respondents in their response admitted that the complainant had given the room on rental basis and further admitted at the time of hearing that the complainant is the widowed daughter-in-law of the deceased G. Narashmulu Reddy, I am of the view that the person who filed the present complaint will come within the meaning of "complainant" given under the clause 2.4 (f) of the APERC Regulation No.3/2016. To attract the provisions of the clause 10.2 (a) of the Regulation No.3/2016, dispute must be pending between the same complainant and the licensee. The complainant herein is not the person who filed the writ petition. So, the above provision is inapplicable.

7. Now, I am inclined to deal with the submissions of the complainant. The submission of the complainant that she has no means to pay the amount claimed by the opposite parties is an irrelevant consideration in this case. Sub-section (1) of section 56 of the Electricity Act confers a statutory right to the licensee company to disconnect the supply of electricity if the consumer neglects to pay the electricity dues. As the submission of

the respondents is that the sum due has been shown continuously as recoverable as arrear of charges, the period of limitation of two years provided by sub-section (2) of Section 56 of the Act also has no application to the facts of this case. The complainant submits that she is the widowed daughter-in-law of late G. Narashmulu Reddy and is the sole legal heir to succeed to the above leased premises. Her contention is that the amount due to the respondents towards pole tax is payable only by the surviving tenant, but the electricity service connection No.5112302001862 of Chittoor Town has been standing in the name of her father-in-law, G. Narasimhulu Reddy (deceased). If she claims the above premises as a legal heir/representative, she must pay the amount and recover the same from her tenant. So, she cannot escape her responsibility. Considering the above, I am of the view that I cannot withdraw the above amount or direct the respondents to restore the power supply to the premises in question, as prayed for by the complainant, and redress the above grievance of the complainant. For the above reasons, I am of the opinion that the complainant is not entitled to any relief in this case. This point is, thus, answered.

8. In the result, I dismiss the representation. 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 10th day of August, 2021

Sd/- N. Basavaiah
VIDYUT OMBUDSMAN, AP

To

1. M. Rupavathi, D.No.4-2175/3, Greampet, Vellore Road, Chittoor
2. Assistant Accounts Officer/O/Chittoor Town
3. Dy. Executive Engineer/O/Chittoor CCO
4. Executive Engineer/O/Chittoor Town

Copy To:

5. The Chairperson, C.G.R.F., APSPDCL, 19/13/65/A, Srinivasapuram, Near 132 kV Sub-station, Tirchanoor Road, Tirupati- 517 503.
6. The Secretary, APERC, 11-4-660, 4th Floor, Singareni Bhavan, Red Hills, Hyderabad - 500 004.