



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

:: Present ::

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

Date: 07-02-2020

Appeal No. 25 of 2019-20

Between

K.Ranga Rao, s/o Jagannadham, 5-14-86/26, Autonagar, Sattenapalli, Guntur
District

... Appellant

And

1. Chairman & Managing Director/APSPDCL/Tirupati
2. Superintending Engineer/Operation/APSPDCL/Guntur
3. Divisional Engineer/Operation/APSPDCL/Narasaraopeta
4. Assistant Divisional Engineer / Operation/APSPDCL/Sattenpalli

....Respondents

ORDER

The above appeal- representation has come up for final hearing before the Vidut Ombudsman on 30th January, 2020 at Guntur. The complainant, along with his representative, as well as the respondents except the respondents 1 and 2,

was present. Having considered the appeal-representation and submissions made by the above persons present, the Vidyut Ombudsman passed the following:

1. This appeal has been preferred by the appellant-complainant against the order **dated.06-08-2019 in C.G.No. 36/2018-19/Guntur 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 filed by the complainant for reconnection of electric supply disconnected for the service connection number 11366 given to the premises bearing house number 5-14-86/26 of Sattenapalli of Guntur District, or for a new service connection to the above premises.

2. The facts leading to file the representation are as follows: One Kondaveeti Venkata Krishna Mohan was the proprietor of Kondaveeti A/C restaurant situated at Sattenapalli, of Guntur District and had the above electricity connection for the above restaurant in the month of October 2000. On 11-5-2003 at about 5.15 pm, the then Asst. Divisional Engineer, Sattenapalli and other staff members, of the licensee, detected theft of electricity by the above consumer. The consumer paid Rs.1,67,000 on 22.05.2003 towards compounding fee to avoid criminal case and Rs.1,31,179/ on 2.7.2003 under the threat of disconnection. Finally, the loss of revenue, on account of theft of electricity, was assessed by the licensee at Rs.10,47,474/, and a writ petition bearing number; 24942/2004 was filed by the consumer challenging the above final assessment. The Honorable AP High Court allowed the writ Petition on 19-03-2014, set aside the assessment orders passed by the respondents 1 and 2, and gave liberty to the licensee to take steps for determining the civil liability of the writ petitioner in accordance with the

provisions of section 154 of the Electricity Act 2003. During the pendency of the above writ Petition, the complainant purchased the above restaurant in 2012 from the previous owner. Thereafter, the licensee got a regular suit in OS No 1/2015 filed against the writ petitioner on the file of First Addl. district Court, Guntur for Rs.48,97,175-70 ps with subsequent interest at 18% from the date of suit and obtained an ex-parte decree on 10-03-2017 for Rs.48,97,175-70 ps. with interest as prayed for. The ADE/Sattenapalli, on 13-7-2017 served a notice on the name of previous consumer, upon the complainant and disconnected the electricity service connection of the restaurant. Therefore, the purchaser-complainant approached the Forum and filed the complaint for the relief stated supra. The Forum, initially, rejected the complaint with an observation that the complaint derived the title to the premises through one of the vendors who suffered a decree. The purchaser filed a representation along with an application for an interim order. This authority passed an interim order on 18.9.2017 directing the fourth respondent to restore the electricity supply to the restaurant of the complainant forthwith subject to the complainant depositing Rs.3,75,000/ on or before 1st October, 2017 with a further conditional direction to deposit Rs.3,75,000/ on or before 1st November 2017, and the electricity connection was restored as per the above conditional order. Subsequently, this authority allowed the previous representation, set aside the order of the Forum, directed the Forum to admit the complaint for hearing if it is otherwise in order and decide it on merits. The Forum admitted the complaint for hearing, and after considering the pleadings, dismissed it on merits. After dismissing the complaint, supply of electric energy was disconnected. Not satisfied with the above order, the complainant again preferred this representation, along with an application for an

interim order for restoration of supply, and an interim order was passed. The complainant deposited Rs.50,000/ with the licensee. The power supply was restored subsequently, as per the orders of the Hon'ble High court. The complainant, thus, in total, paid Rs.8 lakh to the licensee.

3. It is alleged in the complaint that when the complainant asked the Electricity Assistant Engineer in 2012 to change the electricity connection in his name as he became the owner of the restaurant, he refused to do so because of the dispute between the seller and the Licensee, and advised him to pay cc bills regularly because there is no dispute with him and that the electricity service connection of the restaurant was disconnected , abruptly, on 13.7.2017.

4. No evidence has been adduced by both parties even before this authority.

5. The authorised representative of the appellant made the following three submissions:

I) that the provisions relied upon by the Forum for dismissing the complaint are not applicable to this case as in those provisions, it is not stated that the purchaser has to clear the arrears payable by his vendor; the Forum cannot interpret the terms of the registered sale deed executed between the complainant and his vendor;

II) that dues means only legally dues and does not include penalties; it is observed in the order of the Hon'ble High court that while the criminal case was compounded between the licensee and the vendor of the complainant, the licensee collected compounding fee besides Rs.1.5 lakh from the vendor of the complainant; and

III) that as the appellant filed interlocutory applications in O.S.No.1/2015, orders may, at least, be passed directing the licensee not to disconnect the electricity supply till the disposal of the above said interlocutory applications.

6. The third respondent for himself and on behalf of the fourth respondent submitted that the submissions made on behalf of the appellant are not correct, and the order of the Forum is correct and that unless and until the amount due under the decree passed on 10.03.2017 in O.S.No.1/2015 is paid, the complainant is not entitled to the relief sought for. He further submitted that to avoid criminal liability, the vendor of the complainant paid the compounding fee and the civil liability was assessed, subsequently.

7. At the outset, I would like to say that there is no merit in any one of the above submissions made on behalf of the appellant complaint for the following reasons.

(a) As regards to the first submission: The Forum, in its order, relied upon clauses 8.3 and 8.4 of GTCS-2006, 7.A of the APERC Regulation No.5/2004 and section 56(2) of the Electricity Act.2003. No doubt, there are no words in the above clauses or the section stated supra to indicate that where the premises comes to be owned or occupied by any person under a private sale and when such person seeks supply of electricity, he has to clear electricity arrears as a condition precedent to get supply. The liability to pay arrears in this case is on the former owner, as per the agreement for supply of electricity between the licensee and the erstwhile consumer. That is not sufficient in this case and on that basis, this authority cannot uphold the appeal representation. It is for the appellant complainant, who approached the Forum, to show that there is a provision of law in the Electricity Act,2003 or the Reform Act or any APERC regulation made

there- under etc., to the effect that the persons like the appellant complainant herein is entitled, as a matter of right, to get supply of electric energy from the licensee without clearing electricity past arrears, and the licensee denied his above right and that his grievance is within the meaning of 'Grievance' as stated in clause 2.7 of the A.P. Electricity Regulatory Commission Regulation No. 3 of 2016. The representative of the complainant did not show me any such provision of law or any APERC Regulation touching the above aspect. In the absence of the above, I cannot do anything in this case. Now, I am inclined to look into other aspect. The Forum, after referring the relevant terms of the sale deed, opined that the complainant also acquired rights over the service connection including the security deposit. Unless there is a recital in the sale deed indicating the liability upon the purchaser to pay past electricity arrears, there is no need to refer or interpret the terms of the sale deed. The remaining terms are not relevant. However, it does not matter as it not crucial. This submission is, thus, answered.

(b): As regards to the second submission: In view of my opinion on the first submission, this submission needs no detailed discussion as the appellant complainant did not come forward to clear past electricity arrears, and his authorised representative did not place before me any binding authority supporting his submission. However, I am of the opinion that the amount due to the licensee is to be calculated or determined as per section 154(5) of the Electricity Act, 2003, and the APERC Regulations besides the terms of the agreement for supply of electricity. The next aspect is with respect to the amount paid on 2.7.2003. It is not the case of the appellant complainant that only Rs. 1,31,179/- is due to the licensee and is paid. That Rs.1,31,179/ was paid by

the previous owner on 2.7.2003 is not in dispute. So, it is to be deducted with counter interest from the civil liability assessed or to be assessed under section 154 of the Electricity Act. This submission is, thus, answered.

(c). As regards to the third submission: This submission is nothing but in the nature of asking this authority to give an interim direction or interlocutory order. Interim order or direction can only be passed or given, pending final orders. Now, this authority is, finally, disposing of this case. So, this authority cannot, now, pass any interim order. This submission is thus answered.

8. For the above reasons, I am of the view that the appeal representation has no merit, and it cannot be upheld and is liable to be dismissed. Because of my opinion that the representation is liable to be dismissed and because of interim orders, both parties must be placed to their original position, and I must make some observation regarding Rs.8 lakh deposited by the appellant complainant in these proceedings. Hence, it is to be observed that the licensee shall have to refund the amount of Rs.8 lakh deposited by the appellant complainant with it, as stated supra before the supply of electric energy is disconnected.

9. In result, I dismiss the appeal representation with an observation that the licensee shall have to refund the amount of Rs.8 lakh deposited by the appellant complainant with it, to him before the supply of electric energy is disconnected. No costs.

s/d. N.Basavaiah
VIDYUT OMBUDSMAN

To

1. K.Ranga Rao, s/o Jagannadham, 5-14-86/26, Autonagar, Sattenapalli, Guntur District
2. Chairman & Managing Director/APSPDCL/Tirupati
3. Superintending Engineer/Operation/APSPDCL/Guntur
4. Divisional Engineer/Operation/APSPDCL/Narasaraopeta
5. Assistant Divisional Engineer / Operation/APSPDCL/Sattenpalli

Copy To:

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

//CERTIFIED :: TRUE COPY//

//FORWARDED :: BY ORDER//