



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

:: Present ::

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

Date: 28-10-2020

Appeal No.07 of 2020-21

Between

Smt K.Susheela, W/oK.Prabhakar Reddy, No.1/167, Chapadu Village and Post,
Chapadu Mandal, Kadapa District.

... Appellant

And

1. Assistant Accounts Officer / APSPDCL/**Mydukur**
2. The Deputy Executive Engineer /O/APSPDCL/**Mydukur**
3. The Executive Engineer / Operation / APSPDCL/**Mydukur**

....Respondents

ORDER

The above appeal- representation came up for final hearing, by way of Video Conferencing, before me at the office of the Vidyut Ombudsman, Vijayawada on 22-10-2020. The representative of the appellant complainant and the respondents except the first respondent were present. Having considered the appeal-representation and submissions of the above parties present, the Vidyut Ombudsman passed the following:

1. This appeal-representation has been preferred by the appellant-complainant against the order **dated.21-07-2020 in C.G.No.1960/2019-**

20/Kadapa 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 rejected the complaint of the appellant complainant relying upon the second limb of the Clause No.10.2(a) of the APERC Regulation No.3 of 2016 and stating that the complaint in question is barred by the principles of 'Res-judicata' as the District Consumer Disputes Redressal Forum, Kadapa dismissed the complaint in C.C.No.76/2016 with respect to the same subject matter on merits.

2. The facts leading to file this are as follows:

The appellant complainant filed a complaint before the CGRF,Tirupathi in CG.No. 194/2016-2017 challenging the CC bill claiming arrears and also, filed another complaint before the District Consumer Disputes Redressal Forum, Kadapa, in CC.No. 76/2016, and the CGRF,Tirupathi rejected the complaint in CG.No.194/2016-17 on 22-12-2016, as per the provisions of clause No.10.2(a) of the APERC Regulation No. 3 of 2016 on the ground that the same matter was pending before the District Consumer Redressal Forum,Kadapa in CC.No. 76/2016. Subsequently, the District Consumer Disputes Redressal Forum dismissed the complaint of the appellant complainant, and thereafter, the appellant complainant preferred an appeal in FA.No. 146/2017 against the orders of the District Consumer Disputes Redressal Forum, Kadapa before the A.P. State Consumer Dispute Redressal Commission, Vijayawada and subsequently, filed a Memo for withdrawal of the appeal, and the State Consumer Disputes Redressal Commission dismissed the appeal as withdrawn granting liberty to the appellant complainant to approach the proper Forum for redressal, and on that basis, the appellant filed the complaint again before the CGRF, APSPDCL, Tirupati. The

Forum again rejected the complaint as stated supra . Not satisfied with the above order, the complainant preferred this appeal representation.

3. The representative of the appellant complainant submitted that as per the orders of the State Consumer Disputes Redressal Forum, the appellant complainant is entitled to file the complaint and that therefore, the order of the Forum is not legal and is liable to be set aside. The respondents did not make any submission contra to the above submission. Perused the grounds of appeal representation . .

4. The following point is framed for consideration:

Whether the order of the Forum rejecting the complaint under the clause 10.2(a) of APERC Regulation No.3/2016 is not legal and is liable to be set aside?

5. **Point:** At the outset, I would like to say that the rejection of the complaint is not legal and is liable to be set aside because no authority finally disposed of the rights of the parties and because there is final order in this case. The Forum relied upon the clause No. 10.2 of the Regulation No.3/2016 to reject the complaint, and the above clause runs as follows :

10.2 *The Forum may reject the complaint at any stage under the following circumstances:*

a) In cases where proceedings in respect of the same matter and between the same complainant and the Licensee are pending before any court, tribunal, arbitrator or any other authority, or a decree or award or a final order has already been passed by any such court, tribunal, arbitrator or authority.

Clauses b) to d) are unnecessary. To attract the above clause, a final order must have been passed by any authority. It appears the Forum is of the firm opinion that the order passed by the District Consumer Disputes Redressal Forum, Kadapa in CC.No. 76/2016 is final, and as such, it rejected under the above clause. But, the view of the Forum is not correct. Final order means an order which finally disposes of the rights of the parties, vide **Ramchand Manjimul (v) Govardhanadas Vishindas, 7 AIR 1920 PC 86.** The above judgment has been consistently followed in the subsequent decisions. In this case, the order passed by the District Consumer Disputes Redressal Forum, Cuddapah in CC.No. 76/2016 is not confirmed by the appellate authority (State Commission) in order to hold that there is a final order attracting the above clause or that the principles of 'Resjudicata' are applicable. Since there is no final order in this case, the second limb of the above clause does not attract to this case. Therefore, I am of the view that the Order passed by the Forum rejecting the complaint is not in accordance with the above provision of law and is liable to be set aside, and the matter is to be remanded to the Forum for fresh consideration. For the above reasons, I am of the opinion that the order of the Forum is not legal and is liable to be set aside and that the appeal-representation is to be upheld and is upheld. This point is, thus, answered.

6. In the result, I allow the appeal representation and set aside the order of the Forum. The Forum shall restore this case to its original number on its file, issue notices to both parties and give an opportunity to lead evidence, if parties want to do so, before the case is decided on merits, and decide ii on merits, as per the provisions of the Regulation 3 of 2016. There is no order as to costs.

7. A copy of this order is made available at

www.vidyutombudsman.ap.gov.in

This order is corrected and signed on 28th October, 2020.

S/d. N.Basavaiah

VIDYUT OMBUDSMAN

To

1. _Smt K.Susheela, W/oK.Prabhakar Reddy, No.1/167, Chapadu Village and Post, Chapadu Mandal, Kadapa District.
2. Assistant Accounts Officer / APSPDCL/**Mydukur**
3. The Deputy Executive Engineer /O/APSPDCL/**Mydukur**
4. The Executive Engineer / Operation / APSPDCL/**Mydukur**

Copy To:

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