



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

:: Present ::

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

Date: 28-10-2020

Appeal No.09 of 2020-21

Between

P.Sreenivasa Rao, Ammanabrolu (V) & (P), Ammanabrolu (V) & (P), 6-108,
N.G.Padu (M), Ongole Prakasam District

... Appellant

And

1. Deputy Executive Engineer/**O/Ongole Rural-2**
2. Executive Engineer/Operation/**Ongole**

....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 appellant complainant and the respondents 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.31-07-2020 in C.G.No.282/2019-20/Ongole 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 holding that the existing electric poles cannot be shifted to another place at free of cost.

2. The case of the appellant complainant, an ex-service man, is that an electrical pole was erected in his ancestral site in 1984 without his consent , that due to pressure of neighbors, the above pole, in his absence, was shifted to another place abutting the same site of him recently, that he got a house constructed, and the electrical line was passing above his house; that had the electrical pole was in the original place, nobody would have any problem, and though he made a complaint to the respondents , there is no action, and that therefore, he filed the present complaint for shifting of the above pole.

3. The 1st respondent alone filed his response stating that the neighbors of the appellant complainant have informed him that the old pole was not changed and has been existing in the same place, a public site, and that the house being claimed by the appellant complainant does not belong to him; that if the electrical pole is removed, it is not possible to give service connections to other consumers and that appellant complainant occupied the site up to the place of the electrical pole and got the house constructed causing obstruction to the neighbors' passage.

4. No evidence was adduced before the Forum on behalf of both parties. The Forum, on the basis of the above pleadings, rejected the complaint. Not satisfied with the above order, the complainant preferred this representation.

5. The appellant complainant, while submitting the facts stated in his complaint, submitted that the Forum did not determine his complaint properly.

He also submitted that he would produce evidence that the pole had been shifted. The 1st respondent submitted the facts as per his response. He also submitted that the pole could be shifted only on payment of necessary charges by the complainant. The appellant submitted that he would not pay any charges for the above purpose as no fault lies upon him.

6. The following point is framed for consideration :

Whether the representation can be upheld ?

7. **Point:** At the outset, I would like to say that the Forum passed the order not in accordance with the provisions of APERC Regulation No.3/2016. Rejection of the complaint is not correct. The Forum has to determine the complaint on merits on the pleadings and evidence available on record, as per the clause 12.3 of the Regulation No.3/2016, and pass reasoned orders, as per the clause 13 of the above Regulation. Even this authority has to settle the representation on merits on the pleadings and evidence available on record and has to pass reasoned orders. In this case, only pleadings are available without any evidence. In such a case, we have to decide the case only on the basis of admitted facts in the pleadings. According to the appellant complainant, the electric pole laid in 1984 had been shifted recently, while the case of the 1st respondent is that the persons in that locality told him that the pole was not shifted. Can we say that it is proper response. In my view, it is not a proper response. So, the simple point to be decided in this case is whether the existing pole is shifted recently or not? That point was not properly considered by the Forum in this case. The appellant is asserting the above fact. It is for him to prove that fact if that fact is specifically denied by the opposite party. If that fact is proved, the Forum has to determine

the complaint in favour of the complainant, otherwise, it is to be dismissed. It is clear from the above response of the first respondent that he has no personal knowledge about the above fact alleged and asserted by the complainant. So, we can safely say that there is no specific denial to the fact alleged by the complainant as to shifting of the electrical pole. We know the consequences if the fact alleged by one party is not specifically denied by the opposite party. It is also not legal to give a finding on the disputed fact without any evidence and without appreciating that evidence. The Forum ought to have decided the point whether the electric pole is recently shifted or not? and then, ought to have determined the complaint. Without considering the above aspects, the Forum dismissed the complaint and passed orders by accepting the above pleading of the first respondent alone without giving any finding on the facts and without going into the above legal aspect. Therefore, I am of the view that the order of the Forum is not a reasoned order, and is not in accordance with the provisions made in the Regulation No,3/2016, and it is liable to be set aside. For the above reasons, I set aside the order of the Forum and uphold the appeal representation, and I am inclined to remit the case to the Forum for fresh disposal in accordance with the above stated law and the prescribed procedure stated supra as in the Regulation No/3/2016. This point is thus answered.

8. In the result, I set aside the order of the Forum, uphold the appeal representation and remand this case to the Forum to give a finding on the point whether the electrical pole has been shifted or not? and then determine the complaint afresh on merits. 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 afresh and on

merits. I direct both parties to bear their respective costs. This representation-appeal is, thus, disposed of.

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

S/d. N.Basavaiah
VIDYUT OMBUDSMAN

To

1. P.Sreenivasa Rao, Ammanabrolu (V) & (P), Ammanabrolu (V) & (P), 6-108, N.G.Padu (M), Ongole Prakasam District
2. Deputy Executive Engineer/**O/Ongole Rural-2**
3. Executive Engineer/Operation/**Ongole**

Copy To:

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