



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

:: Present ::

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

Date: 30 -12-2021

Representation No.33 of 2021-22

Between

K. Venkata Ramaiah, 25/1/838/A, Netaji Nagar, Podalakur Road, Rice Mill Street,
Nellore Dt ...Complainant

And

1. Executive Engineer / DPE-II/APSPDCL, Nellore Circle (presently DE / Rural /
Nellore)
 2. Deputy Executive Engineer / Operation / Nellore Town-I / APSPDCL
 3. Assistant Executive Engineer / Operation / I.E. Section / APSPDCL
 4. DE / Assessments / Tirupati / APSPDCL
 5. AAO / ERO / Nellore Town-I / APSPDCL
 6. SE / Operation / Nellore Circle / APSPDCL
 7. SE / Assessments / Tirupati / APSPDCL ...Respondents
- (The respondents are impleaded as per the letter of the complainant dated 10-12-2021)

ORDER

The above representation came up for final hearing, by way of Video Conferencing, before me at the office of the Vidut Ombudsman, Vijayawada on 23-12-2021. The complainant and the respondents were present. Having considered the representation and submissions of the parties present, the Vidut Ombudsman passed the following:

1. This representation has been made by the complainant against the order of the ***Forum for Redressal of Grievances of the Consumers in Southern Power Distribution***

Company of A.P Limited, Tirupati rejecting the complaint before admission for hearing ***in Inward No: 3022 dated 11-10-2021 / 2021-22 / Nellore Circle on 11th day of November, 2021.***

2. The facts, in brief, which are necessary for determining the complaint are as follows: The complainant for his premises obtained an electrical service connection bearing No.3311208217619 under LT Category- I (C). On 22-08-2019, one Sri Jaya Krishna Reddy, EE / APSPDCL / DPE-II / Nellore inspected the above premises and found the complainant indulging in unauthorized use of electricity. Having received a provisional Assessment Order on 06-09-2019, the complainant submitted his objections to the third respondent (final assessing officer). The 3rd respondent passed a final Assessment Order dated 13-09-2019 and got it served upon the complainant on 28-12-2019. The service connection was disconnected on 13.01.2020 on the ground that the complainant has to pay the entire amount as per the final assessment order and did not pay the amount. Having received the final Assessment Order, the complainant paid 50% of the amount of Rs.21,243/- on 18-01-2020 and preferred an appeal to the appellate authority, and the appeal is still pending. In spite of several requests for reconnection, it was not given, and there was no response. According to the complainant, the inspection report is fabricated with frivolous allegations, and servicing of the final assessment order as well as disconnecting power supply is against rules. The complainant prays to pass orders for reconnection of the service, for refund of 50% of the amount paid with interest at 18% and for payment of compensation of Rs.1,38,000/- for loss of house rent. The Forum called for a report from the EE / O / Nellore before admitting the complaint for hearing, and the 2nd respondent filed his report stating that on 22-08-2019, Sri A. Jaya Krishna Reddy, EE / DPE inspected the above service and found that the consumer is utilizing the supply for pumping water treatment plant in the same premises. According to him, once final order of assessment is issued, the consumer has to pay the entire assessed amount as per the final assessment order, and as the consumer has not paid the entire amount,

the power supply was disconnected. Therefore, the service has been kept under disconnection since then.

3. After considering the above report, the Forum accepted the report and rejected the complaint with an observation that the Forum cannot direct the respondents to restore the service connection without paying the entire assessed amount with interest as per the prescribed procedure. Not satisfied with the above order, the complainant preferred this representation.

4. Submitting the above facts, the complainant further submitted that disconnection of power supply to his premises is illegal and that the reliefs sought for by him in the complaint may be granted. The 7th respondent submitted that an appeal against the Final Assessment Order is pending before him and that he would dispose of that appeal within a week. The EE / O / Nellore submitted on behalf of the other respondents that after passing of Provisional Assessment Order, the consumer has to pay 50% of the assessed amount within one week and has to pay the entire amount within 30 days from the date of passing of Final Assessment Order and that as the complainant in this case did not pay any amount within 30 days from the date of passing of Final Assessment Order, the power supply was disconnected to the premises of the complainant. He also relied upon the format provided in Appendix V and X of the GTCS-2006 supporting the above submissions made on behalf of the respondents. He also submitted that unless the complainant pays minimum monthly charges from January, 2020 onwards, power supply cannot be restored. The complainant in his reply submitted that since the Final Assessment Order dated.13-09-2019 was served upon him on 20-12-2019, he could not pay any amount within one month from the date of passing of Final Assessment Order but paid 50% of the assessed amount within one month after serving the final assessment order, that there is no need for him to pay 50% of the amount within 7 days from the date of passing of the Provisional Assessment

Order and that therefore, the submissions made on behalf of the respondents are incorrect. He further submitted that as there is no fault on his part, the submission of the opposite party touching the payment of minimum charges for two years without consumption of electricity is unjust.

5. The following point is made for consideration:

Whether the representation can be upheld?

6.Point: The reliefs sought for by the complainant are reconnection of the service, refund of 50% of the amount paid with interest at 18% and payment of compensation of Rs.1,38,000/- for loss of house rent. Since 7th respondent submitted that appeal is pending before him, I am not touching the validity or otherwise of the Provisional Assessment Order or Final Assessment Order, and **the question of passing order for refund of 50% assessed amount with interest, as prayed for by the complainant, does not arise at this stage. As per the clause 4(1) of the APERC Regulation No.7/2004 (Licensees' Standards of performance Reulation,2004), the Licensee shall be liable to pay the affected consumers compensation specified in Schedule-II for Licensee's failure to meet the Guaranteed Standards of performance specified in Schedule-I. Compensation for wrongful disconnection of service connection can be granted under the above Regulation. The complainant is not claiming compensation for wrongful disconnection of service disconnection. Since compensation for loss of house rent, as claimed in the complaint, is not specified in the Schedule-I of the above Regulation, I am of the view that this authority is not vested with the power of granting compensation for loss of house rent. So, the relief of compensation for loss of house rent cannot be considered in this case. The remaining relief sought for is reconnection of supply following disconnection due to non-payment of assessed amount for unauthorised use of electricity.** The only question to be seen in this case is whether the complainant is entitled for re-connection of supply to the premises of him?

7. The main contention of the licensee is that the consumer has to pay 50% of the provisionally assessed electricity charges within one week and has to pay the entire amount within 30 days from the date of passing of Final Assessment Order as per the provisional assessment order and the final assessment order, and as the complainant in this case did not pay any amount, as stated supra, the power supply was disconnected to the premises of the complainant. To appreciate the above contention, relevant provisions in the Electricity Act, 2003 to be looked into are Sections 126 and Section 127 besides the clauses 9.2.4, 9.4.5 and 9.4.6 of the GTCS touching Appendix V and X of the GTCS-2006. There are no words either in Sections 126 and 127 of the Electricity Act, 2003 or the clauses 9.2.4, 9.4.5 and 9.4.6 of the GTCS to indicate that Licensee can disconnect the service connection only on the basis of assessment orders **in case of default by any person in payment of** 50% of the provisionally assessed electricity charges within one week or the entire assessed amount as per the final assessment order within 30 days from the date of passing of Final Assessment Order. The above stated clauses of the GTCS say that in the event of failure on the part of the consumer to deposit 50% of the provisionally assessed electricity charges within 7 days as stated supra or pay the entire assessed amount as per the final assessment order within 30 days from the date of passing of Final Assessment Order, the service connection shall be disconnected by the company in accordance with section 56 of the Act. So, Licensee can only disconnect the service connection in accordance with section 56 of the Electricity Act, 2003 **in default of payment of** any charge for electricity or any sum other than a charge for electricity due from any person to a licensee. Not less than fifteen clear days' notice in writing to the consumer before cut off the supply of electricity as per section 56 of the Act is necessary and mandatory. It is not the case of the licensee that it disconnected the supply of electricity to the premises of the complainant after giving notice in accordance with section 56 of the Electricity Act, 2003. In this case, it appears the licensee disconnected the supply of electricity to the

premises of the complainant not in accordance with section 56 of the Electricity Act, 2003 and disconnected the supply of electricity only on the basis of provisional and final assessment orders passed under section 126 of the Act. Section 56(1) of the Electricity Act, 2003 dealing with disconnection **of supply in default of payment of charges etc due by any person to the licensee** goes to show that there is an obligation on the part of the licensee to issue a fifteen days clear notice in writing before it cut off the supply of electricity and that a fifteen days clear notice in writing is condition precedent to cut off the supply of electricity. But the licensee did not do so in this case. The above fault on the part of the licensee is sufficient to hold that the disconnection of the supply of electricity in this case is wrongful and that the complainant is entitled to the above relief claimed. Clause 5.9.4.3 of GTCS says that the consumer shall not be liable to pay the minimum charges for the period beyond 4 months from the date of disconnection. In this case, the licensee cannot claim minimum charges even for the 4 months period as the disconnection of supply of electricity is wrongful. In this case, since the connection was illegally disconnected to the premises of the complainant and he did not enjoy the benefit of electricity during this period, the question of making payment of any amount towards minimum charges does not arise. For the above reason, I am of the view that the submission made on behalf of the respondents1 to 6 is not legally sustainable, that there is failure of performance of a duty under the Act by the distribution licensee within the meaning of 'Grievance' given under the clause 2.7 of the APERC Regulation No.3/2016 and that the complainant is entitled for reconnection of power supply disconnected forthwith to his building. This point is, thus, answered

8. In the result, I direct the respondents to restore the power supply to the premises of the complainant immediately without insisting upon him for payment of any minimum charges. The complainant is not entitled to the relief of compensation towards loss of house rent as this authority has no jurisdiction to grant such relief. As appeal is pending

before the 7th respondent, the complainant is not entitled to the other relief. This representation is, thus, partly upheld. 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 30th day of December, 2021.

**Sd/- N.BASAVIAIAH
VIDYUT OMBUDSMAN, AP**

To

1. K. Venkata Ramaiah, 25/1/838/A, Netaji Nagar, Podalakur Road, Rice Mill Street, Nellore Dt
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8. SE / Assessments / Tirupati / APSPDCL

Copy To:

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