



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

:: Present ::

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

Date: 20-11-2018

Appeal No. 19 of 2018

Between

Sri.G.Muniratnam, C/o. M/s. Sri Ajanthy Foods, D.No. 2-1-122/79,  
T.R.Kandriga, M.Kothur Post, Nagari Post, Chittoor.

...Appellant/ Complainant

And

The CGM/RAC/APSPDCL/Tirupati/Chittoor District

... Respondents

The above - representation-appeal filed on 01-10-2018 has come up for final hearing before the Vidyut Ombudsman on 06-11-2018 at Chittoor. The complainant, as well as the General Manager/RAC/APSPDCL by name Sri.N.Nagasayana Rao on behalf of the respondent, was present. Having considered the representation- appeal, the oral and written submissions made by the complainant and the General Manager, on behalf of the respondent, present, the Vidyut Ombudsman passed the following:

**ORDER**

1. This representation- appeal has been preferred by the appellant-complainant against the **order dated.07-08-2018 in C.G.NO:323/2017-18/ Tirupati Circle**, passed by the **Forum for Redressal of Consumer Grievances in Southern Power Distribution Company of A.P Limited, Tirupati**, dismissing the complaint filed by the complainant with respect to the collection of electrical plant(sic) cubical charges of Rs.1,91,010/- by the licensee while providing a new electricity connection to the consumer-complainant, with a prayer for refund of those cubical charges,

with interest, and also, another prayer to declare that the service electrical line concerning this case belongs to the consumer- complainant .

2. At the outset, I would like to say that that the complaint was presented before the Forum not in accordance with the Annexure- I including the nomination given at the end of the Regulation No.03/2016 and that the secretary of the Forum, without proper scrutiny and without returning the complaint for rectifying the defects, obtained the orders of the Forum for admission of the complaint for hearing. The Forum rejected the complaint previously by assigning reason that it is not competent to entertain the complaint. This authority set aside the order of the Forum on the ground that the rejection of complaint was not in accordance with the provisions of clause No.10(2) of the Regulation No. 3/2016 besides a specific finding at para-9 of the order that the view of the Forum that it is not competent to entertain the complaint is incorrect as the complainant was questioning the fault of the licensee in collecting the charges. The Forum now dismissed the complaint with the same reason assigned while rejecting the complaint. That the Forum, without reading the said order of the appellate authority, dismissed the complainant is probable, otherwise, it is nothing but disrespect to the orders of the appellate authority. It is impermissible in law. I hope that the Forum will read the orders of the appellate authority, at least in the cases remanded to it. I am again saying that the prayer in the complaint is for refund of Rs.1,91,000/ being the cost of electrical plant(sic)cubical charges along with another prayer. The allegations in the complaint convey a meaning that the above amount was collected not in accordance with the provisions of the Act and the Regulation No.4/2013.Is the above meaning not sufficient to say that the allegations in the complaint will fall within the meaning of 'Grievance' given in the Regulation No.3/2016 in order to entertain the complaint by the Forum. The point to be seen in this case by the Forum is whether the cubical charges were collected from the consumer-complainant in this case in accordance with the provisions of Act,2003,or any regulation made there- under, or the directions, orders ,or the guidelines, of the Hon'ble APERC ?. The result of

the complaint will depend upon the finding on the above point.

3. The facts leading to file this appeal-representation are that M/S.Shri Ajanthy Foods represented by its proprietor, Smt.Ganta Padma, Mittakandrika Village, Nindra Mandal of Chittoor District, made an application for a new electrical connection from the respondent to the above industry for 150 KVA with a connected load of 195 HP under HT Category - I at 11 KV Potential, that the concerned prepared a cost estimation(enclosed along with the complaint) for extension of HT supply estimating the charges to be paid by the consumer-complainant for giving the new connection as follows:

(1) Development charges ... Rs. 1,80,000/-; (2). cubical charges .... Rs.1,91,010/; (3). Service Line Charges .....Rs.42,980/ and (4). security deposit charges ....Rs. 2,25,000/-, that the consumer paid the above amounts, and obtained the new electrical connection on 6.6.2015 and that thereafter, as the respondent did not give proper reply to the questionnaire given on behalf of the consumer, the consumer filed the complaint with the prayers stated supra before the Forum by alleging that the collection of cubical charges is illegal and unjust and that as the full cost of the service line was paid by the consumer, the service line belongs to the consumer as well as another complaint challenging the collection of the development charges, instead of filing one complaint with respect to both charges. There is no grievance with regard to collection of service line charges as well as the security deposit charges.

4. The case of the respondent is that the complainant is not entitled to any relief, that the complainant sought for extension of supply at 11 KV potential from an existing line (11 KV industrial feeder emanating from 33/11 KV (Mittakandriga SS) and that the provisions of the Electricity Act,2003 besides the Regulation No.4/13 coupled with the Guidelines of the Hon'ble APERC authorise the licensee to collect cubical charges from the complainant.

5. No oral or documentary evidence was adduced by both parties before the Forum. The Forum, after considering the material available on record, dismissed the complaint as stated supra. Not satisfied with the above order of the Forum, the complainant preferred this representation before this authority. No oral or documentary evidence is adduced even before this authority.

6. The complainant submitted that because the licensee has been doing retail business, why should the consumer pay for the infrastructure of the licensee, that when the full cost of feeder has been paid by the consumer in this case, how does the licensee become the owner of it, that either EHT consumer or a consumer with the dedicated feeder is alone liable to pay the above amount and as the consumer in this case is neither an EHT consumer or a consumer with the dedicated feeder, the licensee is not entitled to collect the above amount and is liable to refund the above amount and that the cost estimate of the licensee was never scrutinized basing on the actual amount incurred and excess amount collected from him is liable to be refunded by the licensee.

7. The respondent submitted that the charges were collected as per the clauses 6 and 7 of the Regulation 4/2013, that as per the clause 8(3) of the above Regulation No.4/2013, the distribution company is the owner of the feeder, that all types of consumers are liable to pay charges and that he is prepared to give the statement of actual amount incurred before the date of orders.

8. The following points are framed for consideration:

(1). whether the licensee is entitled to collect cubical charges from the complainant in this case?

(2). Whether the service line erected in this case would become the property of the consumer on the ground that full cost of service line had been paid by the consumer?

(3). whether the representation can be upheld?

9. Point:1.The Forum, as per clause 13(1) of the Regulation No.3/2016, or this authority, as per the clause No.22(1) of the above Regulation, shall pass reasoned orders on the complaint.. Either the Forum has to determine the complaint or, this authority has to settle the representation (Appeal), on merits, on the pleadings and evidence available on record, vide clauses 12.3 and 21.1,respectively, of the Regulation 3/2016. In this case, there is no evidence and as such, the case is to be decided only on the basis of pleadings. Either the Electricity Act,2003 or the clauses 6 or 7 of the Regulation No. 4/2013 does not contain any word to indicate that the Licensee is entitled to collect cubical charges from consumer while providing a new electricity connection to him. The phrasal word 'cubical charges' as mentioned in the cost estimate, or the meaning of that phrase is not found in the Act,2003 or in the Regulation No.4/2013 or in the GTCS-2006.Clause 7(2) of the Regulation No.4/2013 says that either the licensee or the consumer can bear the cost of meter and allied equipment and that the licensee may require the consumer to bear the full cost of meter and allied equipment. But the word 'cubical charges' is not there. Material as to the nexus between the phrasal word 'cubical charges" and the phrasal word 'meter and its allied equipment' is lacking in this case. It is for the Licensee to place material to say that it was authorized by the Hon'ble APERC to collect cubical charges from any consumer while providing a new connection to him. It did not place any such material before me to say that it was legally authorized to collect cubical charges from any consumer while providing a new electrical connection, or, that the contention of the complainant that the licensee, without any legal right, collected the cubical charges is incorrect. Even as per Para 6 - 2 of the proceedings of the Honorable APERC dt:09-09-2016 with guidelines, given in pursuance of the proceedings of the Hon'ble APERC dated 29.05.2015, charges shall not be collected towards metering and allied equipment such as CT and PT, connecting cables, meter box and supporting structure of the metering and the Licensee is entitled to collect only the Security Deposit charges, Service Line charges and Development charges. considering the above, I

entertain a doubt regarding the right to collect the cubical charges by the Licensee from the complainant. Even the order of the Forum is silent on the above aspect. Section 46 of the Act,2003 has vested the Hon'ble APERC with the power, by regulation, to authorize the licensee to recover the expenses reasonably incurred in providing any electrical line or electrical plant used for the purpose of giving supply to a person pursuant to section 43 of the Act. Material that the Honble APERC authorized the licensee to collect cubical charges from consumer is not placed before me. Giving any finding, without sufficient material on the above aspect, is not proper and it is not possible to hold that the order of the Forum is a reasoned order passed on the complaint and as such , I am of the view that the order of the Forum on the above aspect is liable to be set aside and that the matter is to be remanded to the Forum for fresh disposal determining the above aspect. This point is thus answered.

10. Point No.2. Condition No. 5.3.2.2 of the GTCS-2006 runs as follows:

" Notwithstanding the fact that a portion or full cost of the service line has been paid for by the consumer, the service line shall be the property of the Company, which shall maintain it at its own cost. The Company shall also have the right to use the service line for supplying or energy to any other person(s)". From the plain reading of the above condition, we can say that the service line shall be the property of the company(licensee) and shall not be the property of the consumer and that payment of a portion or full cost of the service line by the consumer is not a ground to claim ownership over the service line. Therefore, I am of the view that the order of the Forum on this point is correct and is upheld. This point is thus answered.

11. Point No.3: In view of my finding on point No. 1, I am of the view that this representation is to be partly upheld with respect to that point and this case is to be remanded to the Forum to determine the complaint with respect to the first point afresh. In view of my finding on point No.2,the

finding of the Forum against the claim of the consumer over service line is to be confirmed and is confirmed. This point is thus answered.

12. In the result, I confirm the order of the Forum rejecting the claim of the complainant over the service line, but, I set aside the order of the Forum regarding the right of the licensee about the collection of cubical charges collected from the complainant and remand the case to the Forum for fresh disposal to give a clear finding with reasons on merits regarding the right of the licensee to collect cubical charges in this case by mentioning the provision of law under which the licensee is entitled to collect cubical charges from the consumer while providing a new electricity connection without disturbing its order confirmed on point No.2. The Forum shall restore this case to its original number on its file, issue notices to both parties and give an opportunity to both parties to amend their respective pleadings or file additional pleadings and to lead evidence, if parties want to do so, before the case is decided on merits as stated supra. Considering the facts and circumstances of this case, there is no order as to costs. This appeal-representation is thus disposed of.

13. This order is corrected and signed on this 20<sup>th</sup> day of November, 2018.

14. A copy of this order is made available at  
[www.vidyutombudsman.ap.gov.in](http://www.vidyutombudsman.ap.gov.in).

**VIDYUT OMBUDSMAN**

1. Sri.G.Muniratnam, C/o. M/s. Sri Ajanthy Foods, D.No. 2-1-122/79,  
T.R.Kandriga, M.Kothur Post, Nagari Post, Chittoor - 517590.
2. The Chief General Manager/RAC/APSPDCL/Tirupati/Chittoor District

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Copy to:

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

VIDYUT OMBUDSMAN A.P.