



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

:: Present ::

**C. Ramakrishna**

Date: 18-03-2015

Appeal No. 96 of 2013

Between

Smt. T. Krishna Kumari, D.No. 19-374, Manikonda Road, Gudivada, Krishna

District - 521 301

**... Appellant**

**And**

1. The AE/Operation/D-2/APSPDCL/Eluru Road/Gudivada/Krishna District
2. The ADE/Operation/APSPDCL/Eluru Road/Gudivada/Krishna District
3. The DE/Operation/APSPDCL/Eluru Road/Gudivada/Krishna District

**... Respondents**

The above appeal filed on 30-08-2013 has come up for final hearing before the Vidut Ombudsman on 23-02-2015 at Vijayawada. The appellant, as well as respondents 1 to 3 above were present. Having considered the appeal, the written and oral submissions made by the appellant and the respondents, the Vidut Ombudsman passed the following:

## AWARD

2. The appeal arose out of the complaint of the consumer about non-release of a service connection applied for by her. She was not happy with the order issued by the CGRF as she felt that the CGRF had not considered the merits of her complaint properly and hence the appeal.

3. The brief facts of the case are that the appellant applied for a service connection in the month of March, 2013. The respondents did not release the service connection applied for on the ground that a service connection bearing number 20469 belonging to her husband in the same premises was disconnected for non-payment of dues and therefore a new service connection in the same premises cannot be released. The premises is a residential house having different portions -- the ground floor having some commercial shops and the first and second floors having been formed into duplex residence where the appellant is living with her husband who fell in arrears of electricity dues on various counts. Two cases against the appellant's husband -- one is a suit filed by the appellant's husband against the DISCOM's attempt at collecting Rs. 1,85,029/- for tampering of the meter belonging to his cinema theatre and another is a suit for recovery of a sum of Rs. 3,00,462.56 ps for unauthorized usage of agricultural service connection for commercial purpose -- are pending before the Hon'ble High Court in second appeal stage. At the second appeal stage there are conditional stays operating in both the cases. The appellant contends that there are no pending arrears against the premises in question and submits that the assertion of the respondents about non-payment of arrears existing on service connection bearing number 20469 standing in the name of her husband is incorrect. She further pleaded that in view of the stay issued by the High Court, the

respondents ought not to have refused the release of the service connection to her.

4. Notices were issued for hearing the matter. The respondents filed their written submissions stating that the husband of the appellant who indulged in pilferage and unauthorized usage of electricity fell in arrears and therefore, the service connection bearing number 20469 standing in his name, in the same premises where the appellant is seeking a fresh service connection, has been disconnected on 15-03-2013 as it is an alternate live service connection of a defaulting consumer. They further stated that on disconnection of his residential service, he resorted to taking unauthorized supply from his rice mill which is located adjacent to his residence. On their noticing this unauthorized supply on 25-03-2013, a case was booked and he opted to compound the offence. The respondents contend that it is on 28-03-2013 that the appellant's husband, deviously hiding these facts and with a view to avail residential supply without clearing the outstanding arrears, resorted to filing an application for service connection in the name of the appellant. As they have refused to release the service and communicated the same in writing on 04-04-2013, the appellant's husband again resorted to taking unauthorized supply from his mother's service connection bearing number 34510. On noticing this unauthorized supply, they again booked a case against the appellant's husband on 08-04-2013. While things stood thus, the appellant approached the Hon'ble High Court in second appeal against the judgements of the first appellate Court at Gudivada obtained conditional stays in both the cases.

5. During the course of the hearing, the appellants and the respondents confirmed what they stated in writing and also filed additional material in support of their contentions. The key points that arose for consideration in this appeal are:

- a. Whether or not a live service connection of a defaulting consumer can be disconnected for non-payment of dues on another service connection;
- b. Whether or not the appellant is entitled to the service connection applied for; and
- c. Whether or not the CGRF's order is liable to be set aside in this case.

6. The appellant is residing in a duplex residential dwelling. The dwelling already has a service connection bearing number 20469 in the name of her husband. As the appellant's husband appears to be a habitual offender in so far as availing electricity supply is concerned, the respondents had disconnected this service connection bearing number 20469. Instead of setting things right at his end, the husband of the appellant appears to have engineered an application for supply through the appellant to the same residential dwelling in the appellant's name. Having noticed all this, the respondents refused to release the service connection on the ground that the residential dwelling already has a disconnected service for default in payment. It is beyond doubt that the appellant's husband appears to be a habitual offender in so far as availing electricity supply is concerned. During the course of the hearings, the respondents submitted that clause 42.3 of the General Terms and Conditions of Supply (GTCS) issued by APTRANSCO enables them to disconnect any other service connection of a defaulting consumer. This argument cannot be accepted, as the GTCS approved by the Hon'ble Commission in the year 2006 have superseded the GTCS issued by APTRANSCO. The existing GTCS do not have a provision that is similar to clause 42.3 of the GTCS issued by APTRANSCO in 1975. Therefore, the respondents are not correct in disconnecting a live service

connection, on which there are no arrears outstanding, of a consumer for the reason that he / she fell in arrears on account of some other service connection. Such a disconnection does not have any legal sanctity. Therefore, the first issue framed is answered in favour of the appellant.

7. Coming to the second issue, the appellant cannot be denied a service connection based on an illegal action. The disconnection of the service connection bearing number 20469 on account of arrears standing against the other service connections of the appellant's husband is not correct and legal. Hence, refusing to release a service connection on the ground that the premises where the electricity connection is being sought is already having a disconnected service for non-payment of dues also is not legal and does not stand to reason. But, during the course of the arguments, the respondents argued that they are entitled to refuse the service connection applied for by the appellant on the ground that there already exists a service connection and there is no separate establishment existing in that premises where the new service connection is being sought. A perusal of the first three sub clauses of clause 3.5 of the GTCS is required here:

### **3.5 Definition of Separate Establishment**

3.5.1 For the purpose of the GTCS, separate establishments shall include the following types of establishments:

- i Having distinct set-up and staff;
- ii Owned or leased by different persons;
- iii Covered by different licenses or registrations under any law where such procedures are applicable; and
- iv For domestic category, the households having a separate kitchen.

3.5.2 Each separate establishment will be given a separate point of supply.

3.5.3 Notwithstanding the above provisions, the Company reserves the right, where it is reasonably established, that the consumers of the same group or family or firm or company who are availing supply under different service connections situated within a single premises by splitting the units, the Company may treat such multiple connections existing in the single premises as a single service connection and charge the total consumption of all the consumers at the appropriate tariffs applicable for a single service connection. Any officer authorised by the Company shall issue notices to the concerned consumers asking them to furnish a single application for all such services and to pay required charges for merging the services into a single service.

8. It can be seen from a plain reading of the above clause that artificial splitting of the service connections for the sake of availing multiple points of supply to the same premises is looked down upon by the regulations. The idea being that such artificial splitting should not result in consumers availing lower tariffs and / or evading payment of their dues. It could not be established by the appellant that it is for a separate establishment that she is seeking the service connection. As she is living in the same premises where her husband is already in possession of a service connection, her seeking another service connection in her name cannot be supported. In seeking a new connection, she had betrayed her real intentions -- that of supporting her defaulter husband in the non-payment of electricity dues. This cannot be supported. Therefore, this point is held in favour of the DISCOM and it is declared that they are right in refusing to release a service connection applied for by the appellant.

9. Coming to the last issue, this authority finds that the reasoning taken by the

CGRF is not supportable. The CGRF held that the respondents are right in refusing to release a service connection as the service connection of the appellant's husband existing in the same premises has been disconnected for non-payment of electricity dues. Such a decision is not supportable as it is not in accordance with law. The rule position that is relied on by the respondents in refusing the service connection is no longer existing on the rule book. The CGRF also relied on clause 5.9.6 of the GTCS to uphold the refusal of the respondents in the release of the service connection. A perusal of the said clause is required at this stage:

**5.9.6 Dismantlement of Service Line after Termination of Agreement:** On the termination of the LT or HT Agreement, the company is entitled to dismantle the service line and remove the materials, Meter, cut out etc. After termination of the Agreement, the consumer shall be treated as a fresh applicant for the purpose of giving supply to the same premises when applied for by him provided there are no dues against the previous service connection.

10. From a plain reading of the clause it is clear that this clause cannot be applied to a case of an applicant who is not in arrears. This clause enables the respondents to refuse a service connection only when the applicant himself / herself is in dues earlier in the same premises and is seeking a fresh connection. In the instant case, it cannot be said that the appellant is in arrears. Nor can it be said that there existed a service connection with arrears in the premises in question as the appellant's husband secured a conditional stay at the second appeal stage from Hon'ble High Court and the Court had already ordered that the service connection existing in the name of her husband cannot be disconnected. Though the Hon'ble High Court has specifically mentioned about the service connection bearing number 18427, it also explicitly said that "the collection of arrears relating to other connections cannot be made." Moreover, another service connection bearing

number 20469 in the same premises has been reconnected by the respondents based on these orders of the Hon'ble High Court and after ensuring that there are no arrears outstanding against that service. For all these reasons, the stand taken by the CGRF that clause 5.9.6 of the GTCS entitles the respondents to refuse a service connection for the reason that the premises has a service that is disconnected for non-payment of dues, is not correct. Hence, the order issued by the CGRF is liable to be set aside.

11. Therefore, it is hereby ordered that:

- the order issued by the CGRF is set aside as it is bereft of merit; and
- the appellant's application for a service connection is liable to be rejected as it is not being sought for a separate establishment.

12. This order is corrected and signed on this 18<sup>th</sup> day of March, 2015.

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

## **VIDYUT OMBUDSMAN**

**To**

1. Smt. T. Krishna Kumari, D.No. 19-374, Manikonda Road, Gudivada,  
Krishna District - 521 301



2. The Assistant Engineer, Operation, D-2, APSPDCL, Eluru Road, Gudivada, Krishna District
3. The Assistant Divisional Engineer, Operation, APSPDCL, Eluru Road, Gudivada, Krishna District
4. The Divisional Engineer, Operation, APSPDCL, Eluru Road, Gudivada, Krishna District

**Copy to:**

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