



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

:: Present ::  
N. Basavaiah, B.Sc, B.L.

Date: 01-03-2021

Representation No.28 of 2020-21

**Between**

Sri Peteti Bhaskar Rao, Proprietor, Srinivasa Ice Factory, Narayanareddypet,  
Nellore

... complainant

**And**

1. Assistant Accounts Officer/ERO/Nellore Rural/APSPDCL
2. Assistant Executive Engineer/O/Nellore Rural 1/APSPDCL
3. Deputy Executive Engineer/O/Nellore Rural/APSPDCL
4. Executive Engineer/O/Nellore Rural/APSPDCL

....Respondents

**ORDER**

The above representation came up for final hearing, by way of Video Conferencing, before me at the office of the Viduyut Ombudsman, Vijayawada on 25-02-2021. The complainant and the respondents were present. Having considered the representation and submissions of the above parties present, the Viduyut Ombudsman passed the following:

1. This representation has been preferred by the complainant against the **order dated.09-12-2020 in C.G.NO: 120/2019-20/Nellore 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 dismissed

the complaint stating that the respondents adjusted FSA amounts of October,2008 to March,2009 against the payments made by the complainant in between F.Y.2011-12 to F.Y.2014-15,that the complainant is now seeking for re-adjustment of amount in the year 2019,i.e.,after 8 years of inclusion of that amount in cc bills and after collection that too when SLPs are pending before the Hon'ble apex court of India and that it is not competent to pass any orders when the case is pending before the Hon'ble Supreme Court.

2. The facts leading to file this appeal are as follows: Having received a letter dated.12.6.2019 from the complainant consumer, the first respondent, Assistant Accounts Officer, sent a reply letter dated.19.06.2019 stating that the outstanding cc charges amount pertaining to SC No.3511201001201 of Nellore Rural till June,2019 is Rs.2,61,804=80 Ps including Rs.1,22,440=88 being the Fuel Surcharge Adjustment(FSA) charges, from October,2008 to March,2009 and interest thereon from January,2011 to June,2019 and that case is pending before the Hon'ble Supreme Court regarding the Fuel Surcharge Adjustment charges and asking him to pay Rs.1,39,463=92 Ps towards outstanding CC charges, including re-connection charges, and give an undertaking letter to pay the remaining amount of Rs.1,22,440=88 towards Fuel Surcharge Adjustment including interest, in case the Supreme court decides the case in favour of the licensee. Receiving the above letter, the complainant filed the complaint questioning the above letter and stating that the above letter lacks the full details of the cc charges, and no amount is due and payable by him towards cc bill. His prayer is to direct the licensee to re-calculate or determine the actual amount due and payable correctly by him towards cc bill as determining the FSA amount besides interest pending before court with cc bills is not correct.

3. The respondents in their written submission stated as to filing writ petition by the complainant and other consumers challenging the right of the licensee to collect Fuel Surcharge Adjustment Charges and filing the writ appeals by other consumers than the complainant and filing the SLP before the Hon'ble Supreme Court by the licensee. They also stated that as per the account copy, there is a minus balance in August,2014 for Rs.24,821.20,and as the complainant paid part amounts only, the bill was generated in live status and that the service connection was being disconnected from time to time due to non-payment of cc charges as per bills.

4. No evidence was adduced by both parties before the Forum. After considering the material available on record, the Forum dismissed the complaint as stated supra. After dismissing the complainant, another notice dated.16.12.2020 was issued to the complainant demanding him to pay Rs.5.83.253/- towards cc charges including the amount shown in the earlier letter dated.19.06.2019. Power supply was disconnected. The complainant filed writ petition No.24800/2020 before the Hon'ble High Court and got an interim order for restoration of power supply on condition of his depositing Rs,2,50,000/- and paying future electricity bills regularly. Thereafter, the complainant preferred this representation on 19.1.2021.

5. Both sides submitted as per their respective cases. It is also submitted by both sides that the Writ Petition No.24800/2020 is pending. The respondents also submitted that the Hon'ble Supreme Court passed interim orders granting stay of refund of the amount already collected and sent a copy of that order through e-mail. The complainant also submitted that he has been paying the cc

bills regularly less the interest levied on the Fuel Surcharge Adjustment amount and that he would seek clarification from the Hon'ble High court in that regard. According to him, he need not pay any penalty charges on the fuel adjustment charges now because the licensee has no present right to collect the Fuel Adjustment Charges from consumers as per the decisions rendered by AP Hon'ble High Court in writs and writ appeals. There is no doubt that the verdict in the writ appeal is a judgment in Rem and is binding on all persons whether they are parties to it or not.

6. There is no dispute that the complainant paid cc bills including Fuel Surcharge Adjustment charges with penalty, as per the proceedings dated.5.6.2010 of the Hon'ble APER Commission, to the licensee for the financial year 2008-09 and challenged those proceedings before the Hon'ble High Court and that the Hon'ble High Court set aside those proceedings on the ground that the licensee is not the person who made an application claiming Fuel Surcharge Adjustment giving a liberty to the licensee to make an application for the above purpose. The complainant did not prefer any writ appeal, but the other writ petitioners preferred writ appeal against the above liberty given to the licensee to make an application and succeeded in the writ appeal. It is also not in dispute that the matter is now pending before the Hon'ble Supreme court and that the Hon'ble Supreme Court passed an interim order granting stay of refund of the amount already collected. It is also not in dispute that the complainant filed the Writ Petition No.24800/2020, prior to filing this representation, and it is now pending.

7. The following point is framed for consideration:

**Whether the representation can be upheld?**

8.Point: It appears the complaint was filed by the complainant on the basis of the order passed by the Hon'ble High court in the writ filed by him. The dispute is with regard to the FSA. Unless and until that dispute is finally determined, the complaint can't be determined. In my view, the representation cannot be upheld because the question whether the licensee is entitled to collect the disputed Fuel Surcharge Adjustment charges from its consumers or not, for the relevant period, is not finally determined by the competent court and because the order passed by the Hon'ble High court has not become final. It appears the relief sought for by the complainant is premature and cannot be considered at this stage. Apart from this, the complainant filed the Writ Petition No.24800/2020 showing all the respondents in the complaint as parties in the writ including the Forum as the second respondent and praying the Hon.ble High Court to issue a direction in the nature of writ of Mandamus declaring the proceedings of Assistant Accounts Officer/ERO/Nellore Rural/APSPDCL in Lr.No.897/2020 dated.16.12.2020 as illegal, improper, arbitrary and against the principles of natural justice contrary to the provisions of the electricity Act and set aside the same. Copy of it is also filed along with the representation. Basing upon the above fact, this representation can be rejected as per the clause 19.3 (a) of the Regulation No.3/2016, and the above clause runs as follows :

19.3 The Vidyut Ombudsman 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 not applicable and not necessary). After reading out the above provision to the complainant (an advocate), he submitted that he would seek clarification from the Hon'ble High Court Itself regarding the monthly cc bill amount to be paid by him. Considering the facts and circumstances of this case, I am of the view that proceedings in respect of the same matter and between the same Complainant and the Licensee are pending before the Honble High Court and as such, I am not inclined to decide this representation on merits and that this representation is liable to be rejected and is rejected. This point is, thus, answered.

9. In the result, I reject this representation as per the clause No. 19.3(a) of the Regulation No.3/2016.No costs.

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

This order is corrected and signed on 1<sup>st</sup> March,2021.

**S/d.N.Basavaiah**  
**VIDYUT OMBUDSMAN**

**To**

1. Sri Peteti Bhaskar Rao, Proprietor, Srinivasa Ice Factory, Narayanareddypet, Nellore
2. Assistant Accounts Officer/ERO/Nellore Rural/APSPDCL
3. Assistant Executive Engineer/O/Nellore Rural 1/APSPDCL
4. Deputy Executive Engineer/O/Nellore Rural/APSPDCL
5. Executive Engineer/O/Nellore Rural/APSPDCL

**Copy To:**

1. The Chairman, C.G.R.F., APSPDCL, Tirupati- 517 503.
2. The Secretary, APERC, 11-4-660, 4th Floor, Red Hills, Hyderabad - 500 004 .