

**BEFORE THE FORUM FOR REDRESSAL OF CONSUMER GRIEVANCES
OF SOUTHERN POWER DISTRIBUTION COMPANY OF A.P LIMITED
TIRUPATI**

On this the 16th day of March 2013

In C.G.No: 298 / 2012-13 / Guntur Circle

Present

***Sri K. Paul
Sri A.Venugopal
Sri T.Rajeswara Rao
(Vacant)***

***Chairperson
Member (Accounts)
Member (Legal)
Member (Consumer Affairs)***

Between

Sri. K. Subba Rao
C/o Sree Sai Home Ladies Hostel,
DNo: 3-28 / 17 / 1., Second line Main road,
Brundavan Gardens,
Guntur City,
Guntur-Dist-522007.

Complainant

And

1. Assistant Accounts Officer/ERO/Town-2/Guntur
2. Assistant Engineer/Operation/D-4/Guntur
3. Assistant Divisional Engineer/Operation/Town-2/Guntur
4. Assistant Engineer/DPE-1/Guntur
5. Assistant Divisional Engineer/CSC/Guntur
6. Divisional Engineer/Operation/Town-1/Guntur
7. Senior Accounts Officer/Operation/Guntur

Respondents

Sri. K. Subba Rao, C/o Sree Sai Home Ladies Hostel, DNo: 3-28 / 17 / 1.,
Second line Main road, Brundavan Gardens, Guntur City, Guntur-Dist-522007,
herein called the complainant, in his complaint dt:08-01-2013 filed in the Forum
on dt:08-01-2013 under clause 5 (7) of APERC regulation 1/2004 read with
section 42 (5) of I.E.Act 2003 has stated that

1. He is running a ladies hostel from July 2012 onwards in a house at D.
No: 3-28-19/A, main road, Brundavan Gardens, Guntur which belongs

to one Sri.Syed W.Hussain, S/o S.Z.Hussain staying at America and was obtained by him on rental basis.

2. The above said house is provided with electrical service connection bearing number 1122200032075.
3. On 27-06-2012 the owner of the house has given his consent to change the category of the service above inviting and left to America.
4. Duly enclosing the copy of the consent letter given by the owner of the house the complainant approached the call centre office of APSPDCL, Guntur, Opp Jute mill and submitted his application.
5. The call center people rejected his application stating that the building ownership document, Photo Identity, Finger print of the owner of the building has to personally approached for filing the application.
6. The same matter was informed to the house owner who inturn replied that he will back to India by 20th January 2013 and attend personally and he is waiting of the arrival of the said house owner, but not have any intention to delay.
7. The municipal authorities also have laid tax for the said house under commercial category and he paid the same accordingly.
8. He paid all the CC.Charges regularly according to the bills.

Notices were served upon the respondents duly enclosing a copy of complaint.

The respondent-1 i.e. the Assistant Accounts Officer/ERO/Town-II/Guntur in his written submission dt:18-01-2013, received in this office on 24-01-2013 stated that:

1. On letter Dt: 20-11-2012, P.A. notice was issued against service number:32075 of D-4 section, Guntur, contending that the consumer utilized supply un-authorized for the purpose other than sanctioned

purpose and arrived an amount of Rs.41344/- towards malpractice C.C.Charges along with supervision charges rs.100/- and reconnection fees Rs.0.

2. Based on the above notice, necessary entries were made in the TE & MP register maintained in this office, further the consumer has been paid an amount of Rs.20672/- C.C.Charges, and supervision charges rs.100/- towards 50% of malpractice amount.
3. The P.A notice and entries extracted from TE & MP register.
4. requested to render justice duly taking into consideration all the factors mentioned above.

The respondent-4 i.e. the Assistant Engineer/DPE-1/Guntur in his written submission dt:17-01-2013, received in this office on 24-01-2013 stated that:

1. He had inspected the premises of SCNo: 32075 (Category-I), D-4, Guntur on 05-11-2012 at about 17:50 hrs.
2. At that time, it was observed that the supply from SCNo: 32075 (Category-I) was utilizing for other than the sanctioned purpose i.e. domestic supply was utilizing for commercial purpose i.e. for ladies hostel. Sri. Sai home ladies hostel. Thus the consumer has committed malpractice in usage of electrical power.
3. The above observations pointed out by him were shown to Smt. Karanam Parimala Devi, W/o Beneficiary Sri. Karanam Subba Rao and explained her that they have to pay some penalty for the above malpractice committed in usage of electrical power. The beneficiary Sri. Karanam Subba Rao has talked over phone that they already have

applied for change of category from I to II at CSC Guntur. But no proof of application filed at CSC, Guntur was submitted.

4. The wife of beneficiary Sri. K. Subba Rao, has agreed with the above incriminating points and signed in the inspection notes and also given her statement on the observations pointed out by the inspecting officer in Col.X.
5. Accordingly to the above incriminating points a malpractice case was booked for Rs.41,444/- vide case No: DPE/GNTT/GNT-2/1668/12 against SCNo: 32075 (Category-I).

The respondent-3 i.e. the Assistant Divisional Engineer/Operation/Town-2/ Guntur, in his written submission dt:17-01-2013, received in this office on 24-01-2013 stated that:

1. The service No:32075 pertains to Sri. K. Subba Rao, DNo: 3-28/17/1, 2nd line main road, Brundavan gardens, Guntur was inspected by Sri.K.Shavali, AAE/DPE-I/GUNTUR on 05-11-2012 at 17:50 hrs and booked a malpractice case for utilizing the domestic supply for other than the sanction purpose i.e. for ladies hostel purpose (The name of the hostel is M/s Sri Sai home ladies hostel).
2. The above issue was informed to that office through inspection report SL.No:425661 and case No: DPE/GNTT/GNT-2/1668/12 DT:15-11-2012 in which the AAE/DPE-I/GNT has informed the assessment calculation to an amount of Rs.41,444/-.
3. The inspection report and assessment calculation of AAE/DPE-I/GNT, a provisional assessment order was prepared under section 126 (4) of the electricity act and the same was issued to the consumer through AAE/O/D-4/GNT in which the consumer is advised to pay 50% of the

provisional assessment amount + supervision charges Rs.100/- in order to continuation of supply within 7 days from P.A order and also advise to make a representation to final assessing officer within 15 days incase of any objections on P.A. order.

Findings of the Forum:

1. The grievance of the complainant is that
 - i. he took a house on rental basis at Guntur city and started running ladies hostel from July 2012 onwards with the consent of the house owner to change the category of the service to commercial and approached the respondents for the said category change, but later rejected his application mentioning the reason that the original consumer in person should file his application and accordingly he is waiting for the arrival of the house owner who is staying at America and he is expected by 20th January 2013.
 - ii. In the mean time the licensee's officials inspected his premises and booked a malpractice case for running the hostel in the domestic premises and served a notice demanding an amount of Rs.41,344/- towards the said malpractice.
 - iii. His plea is that though he approached the respondents voluntarily for the said change of category from to commercial, the respondents refused his application and asked the presence of the original owner for registering the application and hence he is not having any intention in indulging in malpractice, but the delay is on account of the

arrival of the original owner of the premises and he is not at fault.

iv. Requested for render justice by withdrawing the said amount of malpractice.

2. The respondents reported that the inspection was routine and the said notice for Rs.41,344/- is treating the usage of power by the consumer for ladies hostel, a commercial activity while the purpose of supply was for domestic and hence constitutes malpractice in accordance with Section 126 of the Electricity Act 2003 and the assessment was also made in accordance with the rules.
3. The respondent-4 i.e. the AE/DPE-1/Guntur reported that the complainant had talked to him over phone and informed that he had already applied for change of category from I to II at CSC, Guntur, but could not produce any evidence.
4. At the request of the complainant hearing was held at the CSC, Guntur on 18-02-2013 in the presence of the respondents and the complainant where it was noticed by the Forum that it is a fact that the complainant approached the CSC for filing his application seeking change of category from domestic to commercial in view of running the ladies hostel, but was denied by the CSC operators that they have never advised the said complainant to wait for the arrival of the original owner of the premises.
5. More over it is a general tendency of the respondents to change the category of any service from domestic to commercial even based on the simple report of the meter reader to safe guard of their revenue, but in this case though the consumer voluntarily approached the respondents for

change of category they have not acted upon which lead to booking of malpractice case by the DPE wing at a later date.

6. As far as booking of the malpractice case in view of the inspecting officer i.e. AE/DPE-1/Guntur is quite in order according to his knowledge, but the point to be considered is whether there is any intention in the mind of the consumer for resorting to the said misuse of power or not.
7. But as per the versions of both the parties it is understood that there is some communication gap between the consumer and the respondents and the consumer was not educated to that effect to register his application in the call centre.
8. In view of the above the Forum is of the opinion that the consumer is not having any motivation for misuse of power and it is only an act of procedural lapses resulted by improper guidance of the call centre persons and also the concerned operation persons.
9. As such it is felt by the Forum, that it is more appropriate to bill the service under commercial category from 1st July 2012 as stated by the consumer since the lease agreement concluded was dt: 28-06-2012 rather than booking malpractice.
10. The respondents shall revise the bills accordingly for the period from 01-07-2012 to the date of its conversion to category-II based on the report of the AE/DPE-I/Guntur and adjust the amounts accordingly if already paid by the consumer.

In view of the above, the Forum passed the following order.

ORDER

The respondents are directed that they

1. Shall revise the bills of the consumer treating it under commercial i.e. LT-II with effect from 01-07-2012 and serve a notice to the consumer to that effect.
2. Withdraw the amount of malpractice Rs.41,344/- with immediate effect and adjust the amount if any already paid by the consumer.

Accordingly the case is allowed and disposed off

If aggrieved by this order, the complainant may represent to the Vidyut Ombudsman, O/o the APERC, 5th floor, Singarenibhavan, Redhills, Hyderabad-500004, within 30 days from the date of receipt of this order.

Signed on the 16th day of March 2013.

Sd/-
Member (Legal)

Sd/-
Member (Accounts)

Sd/-
Chairperson

Forwarded by Orders

Secretary to the Forum

To
The Complainant
The Respondents
Copy submitted to the Honourable Ombudsman, APERC, 5th floor, Singarenibhavan, Redhills, Hyderabad-500004.
Copy to the General Manager/CSC/Corporate office/Tirupati for pursuance in this matter.