

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

**On this the 30<sup>th</sup> day of June , 2015**

**In C.G.No:172/ 2014-15/Ongole Circle**

***Present***

***Sri P.Venkateswara Prasad***  
***Sri A.Sreenivasula Reddy***  
***Sri T. Rajeswara Rao***

***Chairperson***  
***Member (Accounts)***  
***Member (Legal)***

***Between***

Sri Nakkala Achaiah  
D.No:12-5-10,Gangavarapu Street  
Perala Village  
Perala – Post Office  
Chirala-Mandal  
Prakasam – Dist  
523157

Complainant

***And***

1.Assistant Engineer/Operation/D I/Chirala  
2. Assistant Divisional Engineer/Operation/Chirala  
3.Divisional Engineer/Operation/Chirala

Respondents

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Sri.Nakkala Achaiah is a resident of D.No 12-5-10, Gangavarapu Street ,Perala Village,Perala Post - office Chirala Mandal , Prakasam- Dist. herein called the complainant, in his complaint dt:16.10.2014 filed in the Forum on dt:16.10.2014 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 the resident of D.No:12-5-10,Perala Village,Perala Post –Office,Chirala Mandal ,Prakasam –Dist.

2. He lodged a complaint at Vidyuth Adalath which is conducted at Parchoor ,Prakasm-Dist.
3. They started the Primary Agriculture Co-operative Society in Gangavarapu street Perala Village,Chirala Mandal at door no:12-05-10 on 01.03.2006 in rented house.
4. They had Service No.4411142007333 under category -1 and bills are paying regularly.
5. But the departmental Officials said that to pay the bills under category – 2 since from 10-05-2005 to 9-05-2006 and given the notice with arrears of Rs 27,986/-.
6. And the category -1 changed to category -2 and it is shown in the current bill and without notice the service also disconnected.
7. He lodged a complaint in the Principal Junior Civil Judge Court ,Chirala under OS No:406/2006 on departmental officials for reason the notice given vide LR.NO.DE/A/VJA/Doc.No OGL2758,D.No.5058/dated 14-07-2006 through AE/O/D1/Chirala.The Hon'ble Court has given orders on 21.04.2011 in favour of him by declaring that the notice amount may be collected from the owner of the house.
8. Till now they have paid the bills regularly under category – 2 ,but every month of the bill the penalty amount of Rs 27,986/- with interest from August 2006 upto the date Rs 75,986/- shown in the bill. In the month of September 2014 the bill of Rs 497/- shown under category -2 including arrears of Rs 75,332/-
9. So, kindly revise the bills and do Justice.

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

**The respondent-2, i.e. the Assistant Divisional Engineer/Operation/Chirala in his written submission dt:24.10.2014, received in this office on dt:30.10.2014 stated that:**

1. To the Service No. 4411142007333 of B Zone of DI section Chirala a malpractice notice has issued on 10.06.2006 vide Lr.No ADE/O/CRI/Sub-Eng/FDoc.No/D.No/D.No.973/06 Dt,10.06.2006 for an amount of Rs .27836.00 for utilizing the supply for Non-Domestic purpose but which is under domestic category.
2. The DE/Assessment/Vijayawada has issued a show notice vide Lr.NoDE/A/VJA/F.Doc.No OGL – 2758/d No 5058/06 Dt 17.07.06 for the above service to pay Rs.27986.00 for the malpractice case.
3. The DE/Assesment/Vijaywada has issued a final order vide proceeding No2893/OGL/DE/A/VJA/Doc No OGL -2758/D No 7318/06 Dt 27.10.2006. confirming to pay the show cause notice amount of Rs 27986/-. in the representation of the consumer which is sent to DE/Assessment/Vijayawada has not accepted the rent lease agreement copy as it is unregistered copy.
4. The Consumer aggrieved by the final orders of the DE/Assessment/Vijayawada has filed a petition in the court of Principal Junior Civil Judge,Chirala Vide OS No.406/2006 and final Judgement has received on 21.04.2011 by declaring the proceeding No.2893/OGL/DE/A/VJA/Doc.No OGL -2758/D.No 7318/06 Dt 27.10.2006 is null and void.
5. At present the society is paying regular CC Charges and the Assessment amount has kept as arrears.

**The respondent-3, i.e. the Divisional Electrical Engineer/Chirala in his written submission dt:26.11.2014, received in this office on dt:27.10.2014 stated that:**

1. To the service No 4411142007333 of B Zone of D1 section Chirala a malpractice notice has issued on 10.06.2006 vide Lr.No ADE/O/CRL/Sub-Eng/F Doc No./D.No.973/06 10.06.2003 for an amount of Rs 27836/- for utilizing the supply for Non domestic purpose but which is under domestic category.
2. The DE/Assessments/Vijayawada has issued a show cause notice vide Lr No DE/A/VJA/F.DOC NO OGL -2758/D.No 5058 /06 Dt 17.07.06 for the above service to pay Rs 27986/- for the malpractice case.
3. The DE/Assessment/Vijayawada has issued a final order vide proceeding no 2893/OGL/DE/A/VJA/Doc No OGL -2758 /D.No 7318/06 Dt .27.10.2006.confirming to pay the show cause notice amount of Rs 27986/- in the representation of the consumer which is sent to DE/Assessment/Vijayawada has not accepted the rent lease agreement copy as it is unregistered copy.
4. The consumer aggrieved by the final orders of the DE/Assessment/Vijayawada has filed a petition in the court of Principal Junior Civil judge,Chirala Vide OS No.406/2006 and final judgement has received on 21.04.2011 by declaring the proceeding No.2893/OGL/DE/A/VJA/Doc No OGL-2758/D.No 7316/06 Dt 27.10.2006 is null and void.

**Findings of the Forum:**

1. In accordance with section 145 of the Electricity Act 2003, No civil court shall have Jurisdiction to entertain any suit or proceeding in respect of any matter which an assessing officer referred to in section 126 of the Act. It is evident from the Judgement copy of the Principal Junior Civil Judge , Chirala that the Respondents have failed in filing counter in the Court as to the Jurisdiction of Civil Courts.In the light of section 145 of Electricity Act 2003 the orders issued by the Court is void.

2. The Complainant has not filed his objection before the appellate authority .i.e the SE/Assessment/Tirupati .But filed a suit before the Principal Junior Civil Judge,Chirala.
3. Since the complainant is availing the supply for the non domestic purpose when the service connection released for domestic purpose, it tantamounts to unauthorized use of electricity in terms of Sub section 6 ( b)(iv) of section 126 of the Act.
4. In accordance with subsection 5 section 126 of the Act read with clause 9.3.2.9 of GTCS if the assessing officer reaches to the conclusion that unauthorized use of Electricity has taken place, the assessment shall be made for a period of 12 months immediately preceding the date of inspection.
5. As per the provisions contained in clause no 9.3.2.11 of GTCS:- In case of unauthorized extension of supply to higher tariff category usage, the electricity charges would be estimated at the tariff rates of the higher category in proportion to its use in that category and changed at (twice) 2 times the tariff applicable for he relevant category of service as specified in section 126 (6) of the Act.

But as could be seen from the Assessment notice, it has been taken as 3 times instead of 2 times. Hence requires revision.

### **ORDER**

The DE/Assessment/Vijayawada is hereby directed to revise the Final Assessment Order in accordance with clause 9.3.2.11 of GTCS and shall issue orders within 10 days from the date of receipt of this order .The Respondents shall arrange to serve the revised Final Assessment orders immediately. The Complainant is at liberty to prefer an appeal before the appellant authority if he desires so.

The case is disposed off accordingly.

If aggrieved by this order, the complainant may represent to the **Vidyut Ombudsman, Andhra Pradesh ,Flat No:401 ,4<sup>th</sup> Floor, Ashoka Chambers, Opposite to MLA Quarters ,Adarsh Nagar,Hyderabad-500063**, within 30 days from the date of receipt of this order.

Signed on this, the 30<sup>th</sup> day of June 2015.

Sd/-  
**Member(Legal)**

Sd/-  
**Member(Accounts)**

Sd/-  
**Chairperson**

**True Copy**

**Chairperson**

To  
The Complainant  
The Respondents  
Copy to the General Manager/CSC/Corporate Office/ Tirupati for pursuance in this matter.

