

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

On this the 15th day of May 2018

Inward No: 1288 B, Dt: 17.10.2017 /2017-18/Kurnool Circle

Present

Sri. A. Jagadeesh Chandra Rao
Sri. A. Sreenivasulu Reddy
Sri. D. Subba Rao
Sri. Dr. R. Surendra Kumar

Chairperson
Member (Finance)
Member (Technical)
Independent Member

Between

M/s Sree Rayalaseema Alkalies & Allied Chemicals
40/403, 2nd Floor,
K.J.Complex,
Bhagya Nagar,
Kurnool- Dist

Complainant

ORDER

1. The case of the complainant is that it is a public limited company having its registered office at Gondiparla of Kurnool dist. The unit is power intensive one.
2. Complainant started a unit by adopting new membrane cell technology with a load factor of 0.9. The company made an application to grant supply of power with 0.9 load factor. The Government of Andhra Pradesh constituted a standing committee and the committee given certain commendations/guidelines in the year 1988 the guidelines is applicable with retrospective effect. Some of the guide lines of the standing committee are adverse to interest of the complainant company and other similar situated companies. Those companies filed batch of writ petitions including W.P No: 19986/2002 before the Hon'ble High Court. The Hon'ble High Court disposed off the writ petition on 01.07.2003 with a direction to the Respondents to re-look the matter with pragmatic approach, pointing out various aspects. In spite of directions issued by the Hon'ble High Court the Chief Engineer/Commercial /AP Transco issued a letter dt:09.12.2003 demanding additional charges. The above letters were assailed in W.P.No:4727/2004 and Hon'ble High Court was pleased to allow the Writ petition on 04.04.2005 duly setting aside the letters issued by the AP Transco authorities.
3. After prolonged persuasions and after lapse of 3 ½ years from the date of Judgment of Hon'ble High Court, the amount excessively collected from complainant was adjusted in the bills of June 2007 and part of July 2007. The Hon'ble High Court in Suryamuki Enterprises vs APSEB held that if any delay occur on part of either

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department or consumer interest shall carry @ 18 % on due amount. Following the same principle the complainant filed representation on 19.11.2012 with a request to calculate interest at 18% on excess amount collected from the petitioner i.e Rs.1,83,11,574/- till 31.12.2012. Since the representation was not disposed off complainant filed W.P No: 4957/2013 before the Hon'ble High Court and Hon'ble High Court was pleased to direct the Respondents to consider the representation dt: 19.11.2012 on its own merits in accordance with law. The order was submitted to SE/O/KNL but no order was passed. After bifurcation of the state of Andhra Pradesh the matter was sensitised including SE/O/Kurnool but the authorities have not passed any orders in respect of refund of interest. Hence the complaint.

4. The Secretary of the Forum put an office note stating the complaint is not in conformity with the provisions of Regulation.No.3 of 2016. Hence notice was issued to the complainant for hearing on the aspect of the maintainability of the complaint before this Forum.
5. Counsel of the complainant appeared before this Forum and reiterated the facts that were mentioned in the complaint and further stated that their representation dt:19.11.2012 was not considered on merits inspite of the orders of the Hon'ble High Court and the cause of action arose within two years and complaint is maintainable before this Forum.
6. Point for determination is whether the Forum is competent to entertain the complaint for not considering the representation of the complainant dated: 19.11.2012.?
7. The Hon'ble High Court held in Writ Petition No: 4957/2013 "The Respondents are directed to consider the representation dated: 19.11.2012 on its own merits and in accordance with Law, within eight weeks from the date of receipt of copy of this order. It is made clear that this court has not considered the merits of the matter while disposing of this writ petition".
8. Complainant also filed another representation said to have been made by it on 10.11.2016 to 1).M.D/AP Transmission Corporation Limited, 2). Chief Engineer (Commercial)/AP Transmission Corporation Limited, 3). S.E/Central Power Distribution Company Limited of A.P/Kurnool. The fact of making representations to above said three persons on 10.11.2016 was not at all mentioned in the complaint. Complainant has not filed any other documents to show that representation made to CMD/APSPDCL or to the officers of Corporate Office of APSPDCL.
9. The Secretary of the Forum contacted the representative of the complainant over phone and sought clarification on this issue but there was no response till this day.

Hence this Forum is constrained to dispose of the complaint basing on the material available before this Forum.

10. The first representation dated 19.11.2012 was made to 1).Chairman & Managing Director/ Central power Distribution of A.P and 2). Chief Engineer (Commercial) /Transmission Company of A.P Ltd and 3. S.E/O/Central Power distribution company of A.P.Limited /Kurnool. Bifurcation of Andhra Pradesh took place on 02.06.2014. The Operation circle of Kurnool has been brought under the control of APSPDCL. The letter dated 10.11.2016 addressed by the complainant after disposal of the W.P No: 4957/2013 dated: 19.10.2016 by the Hon'ble High Court was not addressed to CMD/APSPDCL/Tirupati. Complainant filed a photostat copy of representation dated: 10.11.2016 said to have been made to SE/O/APSPDCL. The representation is having seal of office of SE/O/APSPDCL but it is not having any inward no. with signature of the receiving person. The contents of the representation dt: 10.11.2016 shows that complainant requested to consider their representation dt: 19.11.2012 in the light of the directions of the Hon'ble High Court. Complainant has not given any valid reason as to why again requested to consider their representation dt: 19.11.2012 when the Hon'ble High Court gave specific directions in the writ petition. It appears that the representation is redundant. Making again the same representation even after issuance of specific directions by the Hon'ble High Court and presenting complaint that their representation dt:10.11.2016 for the same relief was not considered when it is a replica of earlier representation and stating that the complaint is maintainable before this Forum is not tenable .

11. Para 10.2 of Regulation No.3 of 2016 is as follows:-

“The Forum 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” .

In this case also the complainant filed a writ petition no: 4957/2013 before the Hon'ble High Court and the same was considered and directions were issued to the Respondents to the Writ Petition. So this Forum is not competent to interpret on the orders of the Hon'ble High Court and again to consider the same aspect.

12. Therefore, in view of the above reasons the Forum is of the view that the complaint is not maintainable before this Forum.

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

This order is passed on this, the 15th day of May 2018.

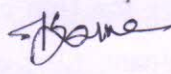
Sd/-
Member (Finance)

Sd/-
Member (Technical)

Sd/-
Independent Member

Sd/-
Chairperson

Forwarded By Orders



Secretary to the Forum

To

The Complainant

The Respondents

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

Copy to the Nodal Officer(Chief General Manager/Operation)/CGRF/APSPDCL/TPT.

Copy Submitted to the Vidyut Ombudsman, Andhra Pradesh ,Flat No:401 ,4th Floor, Ashoka Chambers, Opposite to MLA Quarters , Adarsh Nagar, Hyderabad-500063.

Copy Submitted to the Secretary, APERC, 11-4-660, 4th Floor, Singareni Bhavan, Red Hills, Lakdikapool, Hyderabad- 500 004.