

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

On this the 24th day of June 2019

C.G.No:316/2018-19/Vijayawada Circle

Present

Sri. A. Jagadeesh Chandra Rao

Chairperson

Sri. A. Sreenivasulu Reddy

Member (Finance)

Sri. D. Subba Rao

Member (Technical)

Sri. Dr. R. Surendra Kumar

Independent Member

Between

V. Kondal Rao,
S/o. V. Koteswara Rao ,
66-4-15,
Ramalayam Street,
Patamata,
Vijayawada,
Krishna -Dist.

Complainant

AND

1. Assistant Accounts Officer/ERO/Vijayawada (R)
2. Assistant Executive Engineer/O/Patamata
3. Deputy Executive Engineer/O/Patamata
4. Executive engineer/O/Gunadala

Respondents

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ORDER

1. Complainant presented a complaint before this Forum wherein he has informed that he is having domestic service connection No.6512212020781 under Cat -1(A) in Patamata Section, Gunadala Division. On 04.08.2018 AAE/DPE-II/ Vijayawada had inspected the service and stated that service is being utilized for other than domestic purpose i.e. for commercial activity and penalty of Rs.34,397/- was imposed. Further the inspecting officer has not given the inspection notes to him which itself violates the mandatory rule of the Regulatory Act. But he has paid 50% of the assessment amount Rs.17,199/- plus Rs.100/- supervision charges. Before paying the remaining amount he made an appeal to inspect the premises once again to notice the actual facts and allegations for which he was charged. The inspecting officer has made an allegation that he is availing domestic service for other purposes. But in reality his allegation is wrong and baseless. The fact is that the premises are being used as a living space by certain individuals who are knitting

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workers in tailoring industry. They are using his premises for daily living. He has requested to inspect the premises once again to observe the truth and provide copy of the inspection notes. The illegal notice may be set aside.

2. The respondent No.3 filed written submission wherein he has informed that he along with respondent No.2 inspected the services of the complainant on 07.12.2018 at about 18.30 Hrs and found that the premises is a building having ground, first and second floors. Each floor consisting of 6 No's individual rooms with attached toilets. But kitchen rooms were not available for the individual rooms. The complainant has stated that the rooms were given on rent for 4 persons for each room. Hence malpractice case was booked against the complainant by the DPE wing.
3. A personal hearing was conducted through video conferencing on 05.03.2019 for which the complainant was present and reiterated his version. Respondent No.3 was present. Respondent No.3 has submitted that during the course of physical verification of the premises he has noticed that the tenants in the premises having service connection under question are utilizing the room for cooking purpose also though a separate kitchen is not available. The Forum has directed the complainant to file additional documents to show that the tenants are using the rooms for domestic purpose only and the case was adjourned for further hearing.
4. Respondent No. 3 filed additional written submission on 06.03.2019 wherein he reiterated his earlier version that all the rooms are having attached toilets but there is no separate kitchen room and the same room was being utilized for cooking purpose also. The complainant has stated that the rooms were given on rent for four persons for each single room. The respondent has also enclosed an affidavit filed by the complainant on Rs.20/- Stamped paper to the effect that tenants hailing from Calcutta and working for knitting of Sarees in the looms are residing in the room having the disputed service connection. They will leave the room daily in the morning after preparing the food in the rooms by packing the food in the carriages and come back to the rooms during night times and prepare the food for the night time also. They are not conducting any commercial activity.
5. Point for determination is whether the service is liable to be categorized under Cat-I domestic purpose or otherwise?

The case of the complainant is that the service is being utilized for domestic purpose only by the tenants who are working in the tailoring industry and the tenants are

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preparing food in the room itself and not utilizing for any commercial activity.

Complainant also filed affidavits of some of the tenants to prove his case.

Respondent No.3 in his report stated that the tenants in the rooms are also preparing food apart from living. So his report clearly shows that these rooms are used for domestic purpose only.

Clause 9.1.2 of GTCS is as follows:

“The inspecting officer shall record the observations made at the time of inspection by preparing the inspection report as per the format prescribed in Appendix IV A for LT consumers and Appendix IV B for HT consumers, as the case may be and serve a copy of the same to the consumer at the end of the inspection. The inspecting officer shall send a copy of such inspection report by the next working day to the assessing officer for preparation of the provisional assessment order for cases of unauthorized use of electricity”

Clause 2.2.9 of GTCS is as follows :

“Connected load” means the aggregate of the manufacturer’s rating of all the apparatus including portable apparatus on the consumer’s premises. This shall be expressed in KW or HP. If the ratings are in KVA the same should be converted to KW by multiplying the KVA with power factor of 0.90. If some or any of the apparatus is rated by manufacturers in HP, the HP ratings shall be converted into KW by multiplying it by 0.746”.

If more than one service connection was released to any premises erroneously violating the provisions of Clause No’s. 3.5.1, 3.5.2 and 3.5.3 of GTCS by one wing of the Licensee the other wing of the same Licensee inspecting the premises at a later date and imposing penalty for one year or two years as the case may be is illegal. The provisions of Sec.126 of Indian Electricity Act, 2003 could not be applied for these type of cases. The inspecting authority can only recommend for change of category from the date of inspection only that too duly observing the provision 3.4.1 of GTCS. The inspecting authorities are not expected to raise back billing on account of change of category which was released by another wing of the Licensee when there is no change of activity at all. Raising back billing on the ground of change of category without giving notice and hearing the affected consumer is also arbitrary, illegal and unsustainable.

The field officers are expected to follow the provisions of GTCS at the time of releasing service connections and at the time of subsequent inspections. Had the field officers scrupulously followed these provisions, the present situation would not have arisen at all. So also had the inspecting authorities at the time of inspection of the premises taken care of recording the total available electrical appliances, power points along with their wattage and the activities carried out in the premises by collecting documentary evidence and obtained photographs of the premises with the tab available with them, this situation would not have arisen. It is not desirable to have another inspection of the same premises after lapse of sometime as there is a possibility of changing the features in the premises and it is not advisable to have re-inspection of the same premises after lapse of time to come to conclusion whether such activity was actually carried out or not on the alleged date of inspection. We are also of the opinion that conducting inspection of the premises at a later date is only a futile exercise to ascertain whether such activity was carried out as on the alleged date of inspection or not. It is pertinent to note that the subsequent inspection was not carried out in this case at the instance of this Forum. So to avoid all these troubles the Licensee is requested to issue a circular to all the field officers when more service connections are released in one premise they shall inspect the premises and should scrupulously follow the provision 3.5 of GTCS. So also the inspecting officers shall record the details of the load and the activities carried out in the premises and to collect documentary evidence. So that there will be no scope for these type of allegations.

Since the respondent No.3 himself has submitted that the complainant service is being availed for domestic purpose only, the service is entitled to be billed under LT Category - 1 domestic purpose only. Thus the point is answered accordingly.

6. In result the respondents are directed to withdraw the assessment amount together with the belated payment surcharge if any levied on such assessment amount and categorize the service under LT Cat - 1 domestic purpose. However the respondents are at liberty to re-categorize the service connection at a later date if it is found that the premises is used for purpose other than the domestic purpose after following the procedure.
7. Accordingly the complaint is disposed off.

If aggrieved by this order, the Complainant may represent to the **Vidyut Ombudsman, Andhra Pradesh**, 3rd Floor, Sri Manjunatha Technical Services, Plot No:38, Adjacent to Kesineni Admin Office, Sri Ramachandra Nagar, Mahanadu Road, Vijayawada-520008, within 30 days from the date of receipt of this order.

This order is passed on this, the day of 24th June 2019.

Sd/- Sd/- Sd/- Sd/-
Member (Finance) Member (Technical) Independent Member Chairperson

Forwarded By Order



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 (Executive Director/Operation)/CGRF/APSPDCL/TPT.

Copy Submitted to the Vidyut Ombudsman, Andhra Pradesh , 3rd Floor, Sri Manjunatha Technical Services, Plot No:38, Adjacent to Kesineni Admin Office, Sri Ramachandra Nagar, Mahanadu Road, Vijayawada-520008.

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