

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

On this the 30th day of March' 2021

C.G.No:204/2019-20/Tirupati Circle

Present

Sri. Dr. A. Jagadeesh Chandra Rao

Sri. R.M.M. Baig

Sri. Y. Sanjay Kumar

Sri. Dr. R. Surendra Kumar

Chairperson

Member (Finance)

Member (Technical)

Independent Member

Between

E.Raja Rao,
9-59 A,
Avilala,
Tirupati,
Chittoor Dt.

Complainant

AND

Respondents

- 1 Deputy Executive Engineer/O/Chandragiri
2. Executive Engineer/O/Tirupati Rural

* * *

ORDER

1. The case of the complainant is that 33 KV line is passing through his plot and the same may be shifted.
2. a) Respondent No.1 filed written submission stating that 33 KV line which is already existing in Sy. No.197/ 1 was sanctioned vide CE /Zone/TPT approved Dt 18.03.2014 and the amount of Rs.2,32,915/- was paid vide PR. No.0314215251 dt : 24.03.2014 and shifting had taken place in the year 2014.
b) Respondent No. 2 filed written submission stating that estimate for shifting of 33 KV line Gangundupalli feeder from existing location to new location near Cherlopalli at Sy. No.197/1 and 184 in favor of Sri. V. Meghanadha Naidu under Pudipatla Distribution in rural section, Tirupati has sanctioned on 18.03.2014 vide WBS.No. D-2013-05-04-31-

DESPATCHED

03-009 dt: 18.03.2014. The work was done in 2014 as per departmental procedure.

3. Personal hearing was conducted on 19.12.2019 at court hall, Tirupati. Heard both sides. Respondents are directed to inspect physically the location and submit report. Subsequently personal hearing through video conferencing was conducted on 18.08.2020. Complainant was absent, respondent No. 2 present and stated that work is completed. He also filed a memo stating that they observed dummy pole in the plot and it was removed as per the request of consumer and problem was solved.
4. When complainant was contacted by the then secretary of the forum, complainant stated that his problem was not resolved. Hence again complaint was posted for hearing on 17.11.2020. Complainant was absent. Respondents No. 1 and 2 reported that work is completed. Again the matter was called on 22.12.2020. Complainant represented that stay wires are lying in his plot and they have to be removed. Then respondents again directed to have physical inspection of the plot and file photo and map of the plot.
5. Respondent No. 1 filed additional written submission stating that 33 KV line is passing from Perur to Perumallapali Sub Station. The pole depicted in the photo is erected on the road at a distance of two and half Feet away to the plot of the complainant. The 2 stay wires shown in the photo is also existing on the edge of the complainant plot. The 3 lines of 33 KV line passing 2 feet away from the plot along the road. Only 60 feet is the length of the complainant plot and there is no objection for the remaining plot. Complainant said to have requested to remove the stay wires and to maintain minimum clearance between the building and the lines.
6. Again the matter was called on 09.02.2021 through video conferencing. Complainant was absent. Respondent No.1 present. Respondents filed additional written submission stating that on 04.02.2021, he along with AE /Rural/Tirupati

and complainant went to the plot for removal of stay wire from the plot. But when plot was measured, it was found that existing stay wire is not in the petitioner's plot and also obtained a letter from the complainant and enclosed the letter of the complainant.

7. Complainant in his letter stated that stay wire is not there and there is no problem with it. Again when complainant was contacted by the staff of the forum on 15.02.2021, complainant stated that respondent No.1 promised to remove the stay wire from his plot and obtained letter, but the stay wire was not removed.
8. Hence again the matter was called on 23.03.2021 in the office of the Forum at Tirupati. Complainant and Respondent No.1 present. Heard both sides. Complainant represented that 33 KV line passing by the side of his land causing obstruction for digging a bore well and for construction of the building and stay wire is also not removed as promised and if survey is done, it will be known whether the stay wires are in his plot or not? On the other hand respondent No. 1 reiterated that 33 KV line is passing at a distance of 2 and half Feet from the complainant plot and stay wires are not in the plot of the complainant.
9. The point for determination is whether this forum can direct the respondents to shift 33 KV line without paying amount as per the procedure in vogue?

The contention of the Respondents is that 33 KV line is not passing through the plot of the complainant and stay wires are also not in the plot of the complainant. Respondents also filed 3 photos and sketch to show that the 33 KV line or stay wires are not passing through the plot of the complainant.

The contention of the complainant is that 33 KV line was shifted only for providing service connection to the apartment of another person and it is causing inconvenience for him to construct building and for digging a bore well in his plot.

The shifting of line had happened in the year 2014. This forum after 5 years of shifting of 33 KV line is not empowered to go into the issue whether the field

officers violated the procedure while shifting the 33 KV line for providing service connections to a third party.

The procedure for shifting of lines is provided in Clauses in 5.4.1.4 and 5.3.4 of GTCS which are as follows:

Clause No.5.4.1.4:

Service line once laid shall not be transferred or shifted from one place to another except with permission of the Company. If a consumer desires to have the position of the existing service line altered the Company will take action for shifting of service in possible cases subject to the provisions in 5.3.4.

5.3.4: Charges for shifting of service:

The estimate for shifting the existing service will cover the following items as chargeable to the consumer:

- i. Dismantling charges at the old site;*
- ii. Transport charges from the old site to the new site.*
- iii. Re-erection charges at the new site;*
- iv. Depreciation on the old materials if any not reused at the site;*
- v. Overhead charges;*
- vi. Cost of new materials if required; and Cost of irretrievable materials.*

The consumer shall pay the above charges included in the estimate in advance before taking up shifting operations.

Complainant has not placed any authority that 33 KV line can be shifted without payment of shifting charges only on the ground that it will cause inconvenience and hardship for construction of his house and digging bore well.

It was held by the Hon'ble High Court in W.P No.9700 of 2010 between ITC Ltd., Kolkata Vs Forum for Reddressal of Consumer Grievances of APCPDCL, Hyderabad and others in para 12 and 13 as :

12. "The whole purport of the grievance of respondent No.3 is that his property is used for extending supply to the petitioner. It is the case of the petitioner that no part of the property of respondent No.3 is used for laying the overhead lines or installing

the meter. Thus, the dispute between the parties is purely civil in nature and is liable for adjudication by a competent court of civil jurisdiction on the basis of the evidence to be adduced by both the parties. Respondent No.1 which is constituted for redressal of grievances of consumers of the licensees arising in course of supply of electricity by the latter to the former, is totally denuded of its jurisdiction to resolve a dispute of the nature raised by respondent No.3. Indeed, by directing respondent No.2 to disconnect, remove and shift the lines, respondent No.1 arrogated to itself the power of a civil court. Such power is not inhered in respondent No.1, whose jurisdiction, as noted above, is constricted by the Regulation so as not to permit it to wander outside the narrow confines of grievance redressal mechanism qua the 'consumers' or the licensee. Issue No.1 is accordingly answered in favour of the petitioner.

13. As regards issue No.2, admittedly, in the petition filed by respondent No.3, the petitioner is not impleaded as a party. Various functionaries of respondent No.2 are shown as respondents before respondent No.1. It is incomprehensible that respondent No.1 would have thought of entertaining the petition of respondent No.3, let alone granting directions as was done by it, without impleading the petitioner and hearing it because even if respondent No.1 is assumed to have jurisdiction to entertain the complaint of respondent No.3, it could not have unilaterally concluded that the land over which the electrical lines were laid and installation of meter was made falls in S.No.392. Furthermore, the petitioner is the likely affected party if the power supply is disconnected and overhead line and other installations are removed. The principle of law is well settled that any person who is likely to be adversely affected by the proposed order is entitled to be heard before such an adverse order is passed. (see: State of Orissa v Dr. Binapani Dei, AIR 1967 SC 1269, Bhagat Raja V Union of India, AIR 1967 SC 1606, A.K. Kraipak v Union of India, AIR 1970 SC 150, Maneka Gandhi v. Union of India, AIR 1978 SC 597, S.L. Kapoor v Jagmohan AIR 1981 SC 136, Swadeshi Cotton Mills v. Union of India, AIR 1981 SC 818 and Olga Tellis v Bombay Municipal Corporation, AIR 1986 SC 180). This basic jurisprudential principle is lost sight of by respondent No.1 before passing the impugned order. Therefore, the impugned order passed by respondent No.1 is vitiated by its failure to

