

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

On this the 22nd day of March' 2021

Complaint ID:171102020 /Ongole 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

N. Subramanyam,

Rajaji Street,

Markapur,

Prakasam -Dist

Complainant

ORDER

1. The case of the complainant is that he has taken building in Darimadugu Village of Markapur for use as a hostel for NS Agricultural College for a period of one year from 28.9.2019 to 27.09.2020 from the building owner B. Swamy Reddy. The said building is having 20 No's Electricity service connections under Category-1 (domestic service). After taking over the building and before information is given by owner of the building to the respondents about the change of nature of use i.e. from domestic to commercial, Dy. EE/Markapur inspected the premises on 25.10.2019 and served notice with back billing for a period of one year by assessing an amount of Rs.4,06,324/- as differential amount between LT -2 and LT-1. He was informed that the back billing should be limited to 6 months as per departmental rules instead of one year. The premises was taken for lease only one month prior to inspection. Executive Engineer / Assessments/Tirupati has not revised the back billing. His representation to Superintending Engineer / Assessments /Tirupati was also not considered vide his order dt: 29.08.2020. Superintending

DESPATCHED

DATE

23/3

Engineer/Assessments failed to observe the fact that the premises was regularly inspected by the departmental staff and the status was known to them. SE/Assessments/Tirupati stated in the order that he is utilizing the premises for the last 6 months as per his letter dt: 02.03.2020. The period becomes 6 months as he is utilizing the premises from 28.09.2019 onwards. SE/Assessments/Tirupati has arrived the conclusion based on the consumption history during previous period. SE/ Assessments/Tirupati also opined that there was no variation in consumption for the one year and there is no ground to revise the assessment. Level of consumption cannot be a sole basis to arriving such conclusions. SE/ Assessments/Tirupati has not considered the fact that he has taken the premises on lease from 28.09.2019 and he had submitted copy of agreement entered on a non - judicial stamp paper. Hence requested to revise the back billing from 28.9.2019 only on the date which is taken the premises on lease.

2. Executive Engineer/O/Markapur filed written submission stating that 20 No's service connections standing in the name of Battagiri Swamy Reddy under Category- LT -1/ domestic at Darimadugu village of Markapur Rural section was inspected by Dy. EE/DPE on 25.10.2019 and malpractice case was registered against the consumer. At the time of inspection DPE wing observed that the consumer is utilizing the supply for the purpose of NS (Nadella Subramanyam) Agricultural College Boys Hostel i.e. commercial purpose the services were billing under domestic purpose i.e. Cat-1 instead of Cat-2. The observations were also shown to the representative of the consumer. Provisional Assessment order was issued by Dy.EE/O/Markapur for unauthorized use of electricity. Executive Engineer/Assessments/Tirupati has issued final Assessment Order on 24.02.2020. Superintending Engineer/Assessments/Tirupati also dismissed the appeal filed by the complainant. There is no provision to revise the malpractice cases booked against the consumer service. Hence complaint may be dismissed.
3. Since complainant filed questioning the assessment order issued under Sec.126 of Electricity Act, 2003 the complaint is posted for hearing in respect of maintainability of the complaint before the forum.
4. Personal hearing through Video Conferencing was conducted on 16.02.2021. Complainant's son Mr. Chandra Mouli, Executive Engineer present and heard.

5. Point for determination is whether the assessment orders issued for back billing against the 20 No's services of the complainant are liable to be set aside?

The contention of the complainant is that the premises was taken for lease only on 28.09.2019. They requested the owner of the premises to inform to the Respondents about the change of usage of the services but prior to furnishing of information to Respondents Dy. EE/O/Markapur inspected the premises and issued back billing for a period of one year for the differential amount between LT-II to LT- I .

Complainant raised 3 points. They are:

1. Respondents are only entitled to impose back billing for a period of 6 months and not for one year.
2. SE/Assessments/Tirupati opined that there is no variation in consumption for the one year, but level of consumption cannot be a sole basis for arriving to a conclusion that the premises is used for the hostel and
3. Assessment authorities did not take the lease agreement entered between him and the owner of the premises into consideration.

Complainant filed un-registered lease deed written on non-judicial stamp paper dt: 28.09.2019. On perusal of the copy of the agreement, it is noticed that it is a computer printed agreement and there are no attesters and scribe to the agreement.

Section. 17 of Registration Act was amended in Andhra Pradesh in the year 1999 vide Registration (Andhra Pradesh Amendment) Act, 1999 (Act No. 4 of 1999) with effect from 01.04.1999 and as per the amended section of 17 of Registration Act in A.P., lease deed is compulsory registerable document.

So the un - registered leased deed cannot be taken into consideration to determine the date of commencement of the lease.

When there is a change of occupancy, responsibility cast on the owner of the premises and service connections to inform to the licensee about change of occupancy of premises and usage of electricity.

The relevant provision in case of change of occupancy is contained in Clause: 4.1.5 of Reg. 05/2004 as amended by Reg.07/2013 which is as follows

Change of occupancy/vacancy of premises:

“It shall be the responsibility of the owner of the connection to get a special reading done by the licensee at the time of change of occupancy or on the premises falling vacant.

- i. The owner/user of the connection may request in writing to the licensee for special reading at least 15 days in advance of the said vacancy of the premises by the existing user or change of the occupancy, as the case may be.*
- ii. The Licensee shall arrange a special reading to be done and deliver the final bill, including all arrears till the date of billing, at least 7 days before the vacancy of the premises. The final bill shall also include payment for the period between the date of special reading and date of vacancy of premises on prorata basis.*
- iii. Once the final bill is raised, the licensee shall not have any right to; recover any charge(s), other than those in the final bill, for any period prior to the date of such bill.*
- iv. The licensee may charge reasonable fee for the above service”.*

Complainant or owner of the premises and service connections admittedly did not inform about the change of usage of electricity to the licensee before the inspection conducted by DPE wing. No other document is filed by the complainant to show that the lease was commenced only on 28.09.2019. SE/Assessments/Tirupati after observing the pattern of consumption for the one year come to conclusion that there is no variation in consumption to arrive that lease was commenced only 27 days prior to date of inspection. It may not be a sole basis for arriving conclusion in determining period of usage but is one of the relevant factors to be taken into consideration for determining the usage in the disputed period.

Clause 9.3.2 of GTCS provides the procedure for assessment for cases of unauthorized use of electricity by LT consumers. The relevant provision for this case is Clause No. 9.3.2.9 of GTCS which is as follows:

“If the assessing officer reaches to the conclusion that Unauthorised Use of Electricity has taken place, the assessment shall be made for the entire period during which such unauthorised use of electricity has taken place and if, however, the period during which such unauthorized use of electricity has taken place cannot be ascertained, such period shall be limited to a period of 12 months immediately preceding the date of inspection in accordance with Section 126 (5) of the Act”.

So where the period of un -authorized use of electricity taken place cannot be ascertained such period shall be limited to a period of 12 months immediately preceding the date of inspection in accordance with Sec. 126 (5). In this case as lease period could not be ascertained, the period for un - authorized use of electricity is taken for a period of 1 year. Respondents have followed the above stipulated procedure.

So the contention of the complainant, only back billing can be raised for only 6 months and not for one year as per departmental rules is also not correct.

Assessment authorities have considered the case and rightly rejected the contention of the complainant.

The forum can reject the complaint at any stage as per Clause No. 10.2 (b) of Reg 03/2016 which is as follows:

- a)
- b) *In cases which fall under Sections 126,127,135 to 139 and 152 of the Act*
- c)
- d)

Since the case against the complainant is registered under Sec. 126 of the Electricity Act, 2003 and as assessment was made in accordance with rules and as there are no merits in the complaint, the complaint is liable to be dismissed both on merits and as well as on the aspect of maintainability of the complaint.

