

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

On this the 12th day of March' 2021

Inward No.: 2595/2020-21/ 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

L.Soundar Rajan,
Sekhar Saw Mill, Santhapet Road,
Chittoor.

Complainant

ORDER

1. Lavanya D/o. L.Soundarrajan presented a complaint stating that the service connection No. 5112606000300 in the name of her father is not restored even after several representations to the department personnel. They have no other source of income and family is depending only on the saw mill. Her father is a bed ridden patient.
2. Since the complainant represented in her complaint that their service connection was not restored even after several representations a report from Executive Engineer/O/Chittoor was called for.
3. Executive Engineer/O/Chittoor in his report stated that the service No.5112606000300 with a contracted load of 24.5 HP under Cat-III was released on 28.02.1966. The consumer was running his saw mill when the area was vacant as per field report. The service was disconnected for non-payment of CC charges since December' 15 and further bill stopped in the month of April'16. The saw mill was in door lock condition from the date of disconnection. So the meter could not be dismantled. During the course of time, the area was developed as residential area, surrounding residents on account of noise and air pollution arising from the saw mill raising objections for reconnection of supply to the saw mill. A case was also filed in O.S. No.751/2020 on the file of

Additional Junior Civil Judge, Chittoor. There is an interim order issued by the court for not reconnecting the supply until the disposal of the case. Since there is objection from the surrounding people, instructed them to wait till the disposal of the case. But the Consumer is repeatedly representing to the office for reconnection of supply on the ground that disposal of the case may take long time and they have to run saw mill for their livelihood. A legal opinion was taken from SLA who opined that consumer is not entitled for reconnection of service.

4. Since Executive Engineer reported that a suit is pending in connection of restoration of service connection, the case is posted for hearing in respect of maintainability of the complaint before the Forum.
5. Lavanaya D/o L.Soundarajan complainant herein and AEE /O/Santhapet were heard through video Conferencing on 09.02.2021.
6. The point for determination is whether this forum is competent to entertain the complaint to proceed further to conduct inquiry when a suit was filed in O.S. No. 751/2020 on the file of 2nd Addl. Junior Civil Judge, Chittoor for perpetual injunction restraining the father of the complainant in running the saw mill by third parties in a Civil Court?

Complainant stated that her father is running the saw mill since several years. Her father became sick in the year 2015, so they were not able to run the saw mill and it was temporality closed. As it is only their source of income, they have made all preparations and obtained necessary permission from the concerned and approached respondents for service connection. One neighbour, who constructed the house recently filed a suit but no interim order was given. Their advocate informed that there is no impediment for restoration of service connection. Respondents without any valid reason simply refusing to restore the service connection. Hence service connection may be restored.

According to respondents O.S. No. 751/2020 on the file of 2nd Addl. Junior Civil Judge was filed by neighboring residents against the father of the complainant and others. Respondents filed copies of the plaint schedule in O.S. No.751/2020 and I.A. No. 396/2020 in O.S. No. 751/2020.

The copy of the plaint shows one S. Gayathri and 4 others filed a suit for perpetual injunction against the father of the complainant, DFO, Commissioner of Municipal Corporation Chittoor, and AE/APSPDCL restraining Ist defendant and their men not to establish saw mill machinery in the suit schedule property and directing respondents No. 2 to 4 not to issue permission to 1st defendant to run the saw mill. I.A. No. 396/2020 was filed for temporary injunction restraining the 1st defendant for laying saw mil machinery in the suit schedule property and respondents No.2 to 4 from issuing any permission till the disposal of the suit. Complainant also filed copy of the legal notice issued by Sri P.V Chakravarthy Reddy on behalf of S. Gayathri and others dt : 11.06.2020.

7. Respondents did not file the copy of the interim orders said to have been passed by the learned II Addl. Junior Civil Judge, Chittoor in I. A. No. 396/2020 in OS No.751/2020.
8. The complaint was filed before this forum on 22.01.2021. Legal opinion was obtained by the respondents from their SLA on 24.01.2021. It is pertinent to note that respondents only after a report was called for by this forum approached SLA for opinion. SLA said to have given an opinion stating that as per Clause No. 5.9.4.3 of GTCS, the service deemed to have been terminated at the end of 4 months period from the date of disconnection. Hence the agreement deemed to have been terminated and consumer is not entitled for reconnection. Basing on the opinion of SLA, AEE/O/Santhapet issued a notice to the father of the complainant stating that "it is to inform you that due to non-payment of CC charges from December 2015 and the service was bill stopped in the month of April 2016 the LT agreement has been terminated and APSPDCL has no right of way to reconnect the service as per Clause No. 5.9.4.3 of GTCS".
9. Respondents did not choose to follow the above said provisions for terminating the agreement till complainant approached this forum and had given reply on 28.01.2021 after terminating the agreement on 25.01.2021. Respondents did not state whether they have obtained legal opinion immediately after receipt of notice from advocate of the father of the complainant on 11.06.2020 and when they received summons in the suit and notice in interlocutory application. Executive Engineer also did not specifically state in his report whether counter

and written statement was filed by AEE in the above said proceedings. AEE/O/Santhapet did not state what is the urgency for him to issue notice to the effect that agreement is deemed to have been terminated to father of the complainant even before Executive Engineer filed his report before this forum and the matter is heard by this Forum.

10. When the matter is pending for inquiry before this forum field officers are not expected to proceed further and take action on that issue without waiting for the orders to be issued by the Forum. The act of proceeding and taking any action on the issue pending before this forum is highly deprecated. If field officers are allowed to act as per their wish, consumers will lose their confidence on this forum and the very purpose of establishing this forum will be defeated.

Admittedly by the time complaint filed by the complainant before this Forum, a suit is pending for the same issue before a Civil Court. The contention of the complainant is that no interim injunction was granted by the Civil Court. So this forum is competent to issue orders for restoration of service connection is not tenable. In this connection it is relevant to refer Clause No. 10.2 (a) of Reg. 03/2016 which 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, 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.***
- b)
- c)
- d)

Provided that no complaint shall be rejected unless the complainant has been given an opportunity of being heard”.

This Forum is not competent to pass any orders when proceedings are pending before the Civil Court as per the above said Clause. No. 10.2 (a) of Reg. No.03/2016. Hence this complaint is not maintainable before this Forum.

11. Accordingly the complaint is rejected.
12. Licensee is requested to give suitable directions to all the field officers not to take any action on the issue while pending before the Forum which will hinder the proceedings and in giving any appropriate orders for resolving the grievance of the consumer and if they venture to do so, they are liable for disciplinary action.

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 12th March'2021.

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

Forwarded By Order

105 Reddy
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 (O&M)/ Operation)/ CGRF/ APSPDCL/ Tirupati.

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.