

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

On this 22nd day of October' 2021
C.G. No.35/2021-22/ Anantapur 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

K.Siddappa,
S/o.K. Chinna Babaiah,
Ammavaripalli,
Guttur (P)
Penukonda (M),
Anantapur Dt.

Complainant

AND

1. Assistant Accounts Officer/ERO/Penukonda
2. Dy.Executive Engineer/O/Penukonda
3. Executive Engineer/O/Hindupur
4. Executive Engineer/DPE/Anantapur

Respondents

ORDER

1. The case of the complainant is that he is aged 95 years. He is having land in Sy. No.479-3. He is having agricultural service connection but the land was kept fallow for the last 5 years due to drying of bore well but a case was registered against him as if he sold water. He has not received any information in respect of registering of the case and the service may be converted to AGL service and the service number is 7334111000371. Complainant also stated one Eswaraiyah vide service No.7334111000924 was the actual person who sold water but by mistake a case was registered against him and imposed a penalty of Rs.75,303/- and included in CC bill and the same amount may be withdrawn.

2. Since complainant filed the complaint against the final assessment order issued by EE/Assessments/Tirupati under Sec.126 of Electricity Act, 2003, this forum entertained a doubt in respect of maintainability of the complaint and report was called from EE/O/Hindupur.
3. EE/O/Hindupur submitted report stating that as per the report of EE/DPE/Anantapur, consumer was utilizing the water for construction purpose vide Case No.DPE/HDPR/PNKD/4794/18/dt 14.09.2018. Line inspector stated that he informed the service number to the inspecting officer. As per the statement of complainant, he was not using the supply for the past 5 years the water was sold by Eswaraiah by erecting the pipe lines nearer to his service number. Payments were not made till today after change of category from V to II. The field was observed by Dy.EE/O/Penukonda and AEE/O/Penukonda on 30.07.2021 and found that service was not utilizing supply at present and land was covered with bushes and vegetation. Bore well belongs to K. Eswaraiah was at far away from the bore well of the complainant i.e. 1 KM and railway track is existing in between these two services. According to the witness Ashoklal Naik of Makkajpalli Thanda, pipe line provided by K. Eswaraiah from his bore well to his land located at Guttur along with water canal nearby the lands of K. Siddappa during the year 2018. The water might have been used or not. The length of pipe line is around 750 mts. K. Eswaraiah stated that water pipe line was provided to transfer water from his well to his lands at a distance of 1 KM for Agriculture purpose only and not for sale. The pipe line was also damaged while construction of railway bridge.

EE/O/Hindupur further stated that on enquiry and field observation, it was found that pipelines might have provided to draw the water from the existing service line to the lands located at a distance of 1 KM and also pipes might have provided nearby to the lands of complainant by K. Eswaraiah.

4. Personal hearing through video conferencing was conducted on 25.08.2021. Complainant, his son and EE /O/Hindupur present. Heard both sides.
5. Registered the complaint, notices were issued to EE/DPE/Anantapur also.
6. EE/DPE/Anantapur filed written submissions stating that Mr. V. Jaya Raju inspected the AGL service number 7334111000371 of Guttur Village in Penukonda (M) Anantapur Dt. on 12.09.2018 at 12.15hrs and observed water from the service was sold for construction purpose and no AGL activity was found under the service. Malpractice case was booked vide case No.DPE/HDPR/PNKD/4794/18 dt: 14.09.2018. Consumer is utilizing supply from 25 KVA Agriculture DTR bearing No.S.No.985 (HVDS) near Rythu Mithra Guttur.
7. Respondents 1 and 4 filed joint written submission. The contents of written submission and the report of respondent are one and the same, so also respondent No. 3 filed separate written submission. The contents are also similar to that of respondents No. 1 and 4.
8. Personal hearing through video conferencing was conducted on 21.09.2021. Harikrishna Babu, Grandson of complainant, complainant, the then EE/DPE/Anantapur, Respondents No. 1,3 and line inspector who said to have present at the time of inspection present. Heard both sides. Both parties reiterated their version that was mentioned in their pleadings.
9. The point for determination is whether this forum can intervene and pass orders for setting aside the penalty amount of Rs.75,303/- imposed against the service Number.7334111000371?

The inspection report of EE/DPE /Anantapur dt:12.09.2018 prima facie shows that it is an ex-parte inspection. In the inspection report it was mentioned that line inspector K. Venkateswarulu was present, respondents

while submitting their written submission enclosed the copy of the statement of the said line inspector Mr. K. Venkateswarulu, who in his statement stated that on enquiry he informed the service number but he did not know about lifting of water. Respondents have not filed any other material to support the version mentioned in the inspection report.

Respondents failed to furnish any documentary evidence to show that the provisional assessment order was served on the complainant herein. The copy of Final Assessment Order issued by EE/Assessments/Tirupati filed before this forum shows that provisional assessment order was communicated to the consumer vide letter cited i.e. Dy.EE/O/PenukondaDt:17.09.2018. The Final Assessment Order shows that copy of Final Assessment Order was sent to consumer through Dy.EE/O/Penukonda but Dy.EE/O/Penukonda who is respondent No. 3 did not file any documentary evidence to show that either Provisional Assessment Order and Final Assessment Order were actually served on the complainant. In the absence of any documentary evidence, an adverse inference can safely be drawn that respondents failed to prove that Provisional Assessment Order or Final Assessment Order are communicated to the complainant in time to enable him to file an appeal as provided under Sec.127 of Electricity Act,2003.

The Proceedings under Sec. 126 and 127 of the Act are quasi judicial in nature. Notice has to be issued and an opportunity should be given to the consumer for personal hearing, then only an order can be passed. In the absence of any documentary evidence to prove that Provisional Assessment Order was served on the complainant, the question of complainant to file objections before EE/Assessments/Tirupati as per Sec.126 (3) does not arise. So also the order passed by EE/Assessments/Anantapur without ensuring whether the notice was served on the consumer /complainant or not and without issuing notice to him for personal hearing, passing an assessment

order also will come under the ex-parte orders. Principles of natural justice are not followed in this case.

Since the procedure was not followed while finalizing the assessment, the forum is of the opinion, in the interest of justice, complainant can be given an opportunity to put forth his objections before EE/Assessments/ Tirupati against the Provisional Assessment Order. The point answered accordingly.

10. Complainant is advised to present his objections against Provisional Assessment Order within 30 days from the date of receipt of this order and if any such objection is filed by the complainant, EE/ Assessments/Tirupati is advised to consider the same as if it is filed within the prescribed time and also to give an opportunity to the complainant for personal hearing and thereafter pass orders in accordance with law and communicate the orders to the complainant by way of registered post with acknowledgment due or through courier.
11. Accordingly the complaint is disposed off.

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

Forwarded By Order



Secretary to the Forum

This order is passed on this, the day of 22nd October'2021

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.

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.