

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

On this 30th day of December' 2021

C.G. No.47/2021-22/Tirupati Circle

Present

Sri. Dr. A. Jagadeesh Chandra Rao
Sri. Y. Sanjay Kumar
Sri. K. Ramamohan Rao
Sri. Dr. R. Surendra Kumar

Chairperson
Member (Technical)
Member (Finance)
Independent Member

Between

M.Balaiah,
10-88,
Tirumala Bata,
Yogimallavaram,
Tiruchanur Road,
Tirupati,
Chittoor Dt.

Complainant

AND

1. Assistant Accounts officer/ERO/Tirupati Town-1
2. Deputy Executive Engineer/O/Tirupati CCO
3. Executive Engineer/O/Tirupati

Respondents

ORDER

1. The case of the complainant is that complainant is residing in H.No.10/88 Yogimallavaram (V). He is running a provisions store in his house having serviceNo.5522300002952 under Cat-II. He is also having another service No.5522300003140 under Cat-I. Electricity department personnel inspected their house without giving any information but later service No.5522300003140 was changed from Cat -I to Cat-II and imposed a penalty of ₹.15,000. They are using the domestic service for their house only. On inquiry with electricity office, they came to know that a case was registered against their service and directed them to pay 50%, accordingly they paid 50% of the penalty amount. They are eaking out their livelihood on the income of

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provisions store and penalty was imposed without any fault. Hence the same may be withdrawn.

2. Respondents filed written submission stating that service No.5522300003140 under Cat-LT 1 (B) domestic is running in the name of M/s. Sri Parameswaraswamy Mini Flour Mill, Proprietor Kamakshi. The service was inspected by AE/DPE and at the time of inspection the consumer using LT single phase supply for M/s. Sri Parameswaraswamy Mini Flour Mill which is under Cat-I, thus indulging in unauthorized supply of energy. Consumer is liable for penalty. AE/DPE sent inspection report to Dy.EE/OSD-III for giving initial assessment. Based on inspection report, initial assessment order was issued for ₹.5,843.EE/Assessments /Tirupati/APSPDCL has given final assessment order for an amount of ₹.14,930 and informed to the consumer that appeal on this order lies with SE/Assessments/Tirupati within 30 days from the date of receipt of order along with payment of final assessment order plus supervision charges as per Sec.127 of Principal Act. The consumer has paid an amount of ₹.10,040 dt: 29.8.2021 and the balance amount of ₹.4,890 to be paid. The assessment has arrived on the basis of inspection report of AE/DPE/Tirupati.
3. Personal hearing through video conferencing was conducted on 08.12.2021. Bhaskar son of complainant present. ADE present. Heard both sides. Mr. Bhaskar complainant's son reported that electricity personnel inspected their premises without giving any information. Subsequently issued a bill for payment of ₹.15,000 . He also further stated that they are having another service vide SC No.5522300002952 under Cat-II. They used domestic service only for domestic purpose only.
4. The point for determination is whether this forum can entertain the complaint which was filed against the final assessments orders passed by EE/Assessments/Tirupati under Sec.126 of Electricity Act, 2003 ?

According to respondents, AE/DPE inspected the premises and found that consumer is utilizing the service for the Flour mill. Hence registered a case by imposing penalty.

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The inspection report shows that Smt. Kamakshi, Daughter in law was present but refused to sign in the inspection report. The inspection report is silent how the power supply was utilized for commercial purpose and what was the connected load of the articles used for commercial purpose? As per the inspection report, only four items i.e. one fan, fridge, grinder of 1 HP and tube light were available in the premises. It is not specifically mentioned that the grinder was utilized for commercial purpose at the time of inspection. The inspection report is also silent where the flour mill is located?

According to inspection report, K. Krishna Murthy Dy.EE/DPE-1/Tirupati was said to have been present, but his signature was not obtained in the inspection report. No explanation was given as to why the other officer who accompanied the inspecting officer did not sign the inspection report. In the inspection report, it was mentioned that Smt. Kamakshi daughter in law refused to sign, but according to the inspecting officer the copy of inspection report was given to her. Signature of the witness was not obtained in the inspection report. When the consumer or his representative who was present at the time of inspection refuses to sign in the inspection report, the inspecting officer ought to have obtained signature of the witness and if that is not possible, the inspecting officer ought to have sent the copy of inspection notes to the registered consumer by way of registered post.

According to the complainant, there are two (2) service connections in the premises, one is for provisions store under Cat-II and it is adjacent to their house which is having domestic service connection. Complainant also sent photographs subsequently to prove that fact. During the personal hearing it was brought to the notice that there was another service connection available in the premises for running flour mill. If there are more than one service connection in the premises, it is the duty of the inspecting officer to inspect all the services available in the premises and submit a comprehensive report. But he is not expected to submit a report in respect of one service connection only without giving reasons for not inspecting the other services. The bill details of Service connection No.5522300003140 shows that it is in the name of M. Balaiah . But according to the inspection report, Final Assessment order, the service is utilized for running M/s. Sri Sri Sri Parameswaraswamy Mini Flour Mill.

Copy of provisional assessment order was not filed. The written statement was also silent when the provisional assessment order was served on the consumer?

The Final Assessment order issued by EE/Assessments/Tirupati dt :04.02.2021 shows that provisional Assessment order was issued for an amount of ₹.5,843. But the Final Assessment order was issued for payment of ₹.14,930. The penalty amount was enhanced while issuing final assessment order. The reasons for enhancing the penalty was not mentioned in the final assessment order. The Final Assessment order discloses that consumer has not made any representation on provisional Assessment order. So also Final Assessment order is silent whether a notice was issued to the consumer and an opportunity of hearing was given to him before passing Final Assessment order. Natural justice requires personal hearing before passing Final Assessment order that too when the penalty amount imposed while issuing provisional Assessment order was enhanced while passing Final Assessment order.

Respondents not filed any documentary evidence to prove that copies of provisional Assessment order and Final Assessment order was served on the consumer. The inspection said to have been done on 23.12.2020. The Final Assessment order was passed on 4.02.2021. According to written submissions of respondents, consumer said to have been paid ₹.10,040. On 29.08.2021 i.e. after six months and 24 days of passing of final assessments order. According to complainant they came to know about imposing of penalty only after they received CC bill.

The inspecting officer shall sent copy of inspection report by the next working day to the assessing officer for preparation of provisional Assessment order for cases of un- authorized use of electricity as per Clause. 9.1.2 of GTCS.

The Provisional Assessment Order has to be served in the format prescribed in Appendix- V by the provisional assessing officer within 5 days from the date of inspection/date of receipt of test report of MRT laboratory, as the case may be as per Clause. 9.2.2 of GTCS.

Final Assessment order has to be made after enquiry and after giving reasonable opportunity to the consumer including personal hearing to the consumer as per Clause.9.4 of GTCS. The entire procedure for inspection for detection of un-

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.