

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

On this the 27th day of June' 2022

Inward No.3402 /2022-23/ Nellore 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

K. Venkata Ramaiah,
S/o. K. Subbaramaiah,
25/I/838 (A) 8th Street,
Nethaji Nagar,
Podalakur,
Nellore Dt

Complainant

ORDER

1. Complainant filed this complaint u/s.35 of Consumer Protection Act, 2019. The complaint is presented before this forum after his representation presented to the office of Vidyut Ombudsman was returned dt : 29.04.2022 on the ground that "the complainant did not state the provision of law as to how this authority can entertain representation in the absence of an order from CGRF/APSPDCL/Tirupati" vide Inward No.28 Dt: 27.04.2022
2. The case of the complainant is that service No.3311208217619 is in his name. But L&T Construction Water & Effluent Treatment IC Nellore-UGDS project is the consumer of that service and the service is being used by it for the necessities of their workmen. Every month, personnel from APSPDCL are visiting the premises, obtaining readings and CC bills are paid regularly. SE/Assessments/Tirupati without considering his representation and without examining the inspection notes, assessment order passed by the EE/Assessments and without verifying whether actually provisional assessment order was received by the consumer and without following the procedure dismissed the appeal. Since the provisional assessment order of EE/Assessments/Tirupati and confirmed by SE/Assessments/Tirupati is not valid, the amount paid by him towards 50% of provisional assessment be returned and the service may be continued under Cat-1 only.

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DATE 27/06

3. Since the complainant is questioning the order of SE/Assessments passed u/s. 127 of Indian Electricity Act and as already similar complaint was dismissed by this forum vide orders in Inward No. 3022 dt:11.10.2021-2021-22/ Nellore Circle, the complaint is posted for hearing on the maintainability of the complaint before this forum.
4. Personal hearing was conducted on 8.06.2022. Complainant present and heard. Complainant requested time to submit written arguments and time of 10 days granted for filing written arguments.
5. Subsequently complainant sent written arguments. The contents of written arguments are almost similar to the contents of his complaint.
6. The points for determination are:

Points No.1 and 2:

1. Whether this forum is empowered to entertain the complaint against the assessment orders passed by the Superintending Engineer/Assessments/APSPDCL/Tirupati ?
2. Whether the complaint is barred by the principle of res-judicata?

Complainant earlier filed compliant vide Inward No. 3022 Dt: 11.10.2021/ 2021-22/Nellore Circle. Complainant raised several objections in respect of inspection conducted by EE/DPE-II/APSPDCL/Nellore and the final assessment order passed by EE/Assessments/Tirupati.

On hearing the complainant, the complaint was rejected on the ground that complaint was registered against the service No.3311208217619 under Sec.126 of Electricity Act, 2003 for an authorized use of electricity and there is a prescribed procedure for appeals u/s. 127 of Electricity Act, 2003 and this forum is not inclined to interfere and pass any orders against final assessment orders passed by EE/Assessments/Tirupati and this forum could not direct the respondents to restore the service connection without paying the entire assessment amount. Aggrieved by the orders of this forum, complainant presented a representation to the Hon'ble Vidhyut Ombudsman vide representation No.33 of 2021-22. The orders of Hon'ble Vidhyut Ombudsman are as follows:

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DATE 27/05

“In the result, I direct the respondents to restore the power supply to the premises of the complainant immediately without insisting upon him for payment of any minimum charges . The complainant is not entitled to the relief of compensation towards loss of house rent as this authority has no jurisdiction to grant such relief. As appeal is pending before the 7th respondent, the complainant is not entitled to the other relief”.

Again this complaint is filed after SE/Assessments/Tirupati dismissed the appeal, contending that SE/Assessments has not followed the prescribed procedure and the orders passed by him are not valid.

This forum is not competent to entertain complaints filed under Consumer Protection Act, 2019. This forum rejected earlier complaint filed by the complainant against the assessment order passed by the EE/Assessments. Now complainant again filed this complaint challenging the orders passed by SE/Assessments.

It was held in Gammon India Ltd and another Vs National Highways Authority of India reported in AIR 2020 Delhi 132:

“ Keeping in mind the broad principles which have encapsulated in Or.II Rule 2 CPC, and also Sec.10 and 11 of CPC which would by itself be inherent to the public policy of adjudication process in India, it would be impermissible to allow claims to be raised at any stage and refer to Multiple Arbitral Tribunals , sometimes resulting in multiplicity of proceedings as also contradictory awards” .

We are of the opinion that provisions of Or.II Rule.2 C.P.C., Sec.10 and 11 CPC are applicable to the proceedings before this Forum to avoid multiplicity of proceedings and conflicting and contradictory orders by the different Fora's.

This forum is constituted as per Reg. 03 of 2016 issued by Hon'ble APERC.

Cl.10.2 (b) of Reg. 03 of 2016 is as follows:

“10.2 The Forum may reject the complaint at any stage under the following circumstances:

a)

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

c).....

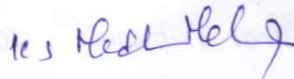
d).....

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

Complainant is not entitled to file complaint before this forum against the orders passed by SE/Assessments/Tirupati on the ground that SE/Assessments/Tirupati has not followed the prescribed procedure while disposing the appeal. Earlier complaint for the similar relief was dismissed. Now again complainant is not permitted to file complaint for the reliefs of re-categorizing the service as domestic service and for refund of 50% amount paid by him in pursuance of provisional assessment order. If the relief claimed by the complainant is allowed, it indirectly amounts to setting aside the assessment order passed by EE/Assessments/Tirupati and confirmed by SE/Assessments/Tirupati which is not permissible. The present complaint is also hit by doctrine of res - judicata. There are no merits to entertain the complaint. The points answered accordingly.

7. In the result the complaint is rejected.

Forwarded By Order



Secretary to the Forum

This order is passed on this, the day of 27th June '2022

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.

BEFORE THE FORUM
FOR REDRESSAL OF CONSUMER GRIEVANCES

To

The Complainant

The Respondents

Copy to the Nodal Officer (Chief General Manager (O&M)/ Operation)/ CGRF/ APSPDCL/
Tiruati.

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.

o/c