

CONSUMER GRIEVANCES REDRESSALFORUM
SOUTHERN POWER DISTRIBUTION COMPANY OF A.P LIMITED, TIRUPATI

This the 27th day of October' 2023

C.G.No.20/2023-24/Ananthapur Circle

CHAIRPERSON

Sri. V. Srinivasa Anjaneya Murthy
Former Principal District Judge

Members Present

Sri. K. Ramamohan Rao	Member (Finance)
Sri. S.L. Anjani Kumar	Member (Technical)
Smt. G. Eswaramma	Member (Independent)

Between

M/s. Saheb Granites, C/o. Shafiulla, 13-472-8,
Prashanti Nagar, Tadipatri, Ananthapur District.

Complainant

AND

1. Assistant Accounts Officer/ERO/ Tadipatri
2. Dy. Executive Engineer/O/Tadipatri
3. Executive Engineer/O/Gooty

Respondents

This complaint came up for final hearing before this Forum through video conferencing on 18.10.2023 in the presence of the complainant and respondents and having considered the complaint and submissions of both the parties, this Forum passed the following:

ORDER

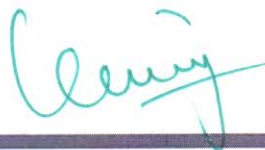
1. The case of the complainant is that he is running stone polishing Industry with a contracted load of 99 HP with Service No.7231127000595 under LT Category-III, but the respondents changed the service from Cat-III to Cat-II from June'2023 without

any prior notice and hence excess bill was raised from June'2023 to August '2023 and thereby requested to direct the respondents to reinstate the service from LT Cat-II to LT Cat-III and to waive the alleged excess amounts from the bills of June'2023 to August'2023.

2. The said complaint was registered as C.G.No.20/2023-24 and notices were issued to the respondents calling for their response. The respondents submitted their response stating that the above referred service connection was issued to the complainant with a contracted load of 99 HP for the purpose of stone polishing industry but the complainant is utilizing the service for another purpose i.e. mineral water plant which comes under commercial activity from industrial service, that the Dy.EE/DPE/Ananthapur inspected the premises of the complainant on 12.04.2023 and found that there was service malpractice and accordingly booked a case under Sec.126 of the Electricity Act and assessed shortfall back billing of Rs.81,270/- and issued a PAO notice vide Notice No. Lr.No. DEE/TDP/SA/D.No.15/2023 Dt: 17.04.2023. But the complainant did not paid the assessment amount and also not approached the appellate authority as per PAO under Sec.127 of Electricity Act. The SE/Assessment/Tirupati issued FAO for an amount of Rs.94,608/- vide FAO Notice SE/A/TPT/F.No.5-23/TDP D.No.61/23 Dt: 11.7.2023. According to FAO the service category was changed from LT-III to LT

-II and included in CC bill of Rs.94,608/-. After FAO also the complainant did not paid the assessment amount and filed W.P.No.17825 of 2023 before the Hon'ble High Court of A.P and the said writ petition is still pending. The service is still under live status and was not disconnected by respondents and the complainant is using the supply for Cat-II purpose. The EE/Opn/Gooty, AE/Opn/Rural/ Tadipatri and AAO/ERO/Tadipatri inspected the premises of the complainant on 29.09.2023 and found that the complainant is still using the supply for mineral water i.e. for commercial activity. The complainant is not paying the regular CC bill amounts as per the bills and by making his own calculation, paying the bill amounts under Cat-III and the outstanding dues as on 30.09.2023 are Rs.2,51,322/-. The category of the service of the complainant was changed from LT-III to LT-II according to Sec.126 malpractice case and finalized by SE/Assessment/Tirupati. The respondents followed the GTCS and Regulations as per the Rules and the complainant is using the supply for non-sanctioned category i.e. Commercial activity from industrial service purposefully and he had not followed the procedure and not paying the CC bills as per demand.

3. Heard both the parties through video conferencing. Exhibits. R.1 and R2 are marked for the respondents.




4. Now the points for determination are:

1. Whether the complaint is maintainable under Clause No.10.2 (a) of Regulation No.03 of 2016 in view of Pendency of W.P. No.17825 of 2023 before the Hon'ble A.P. High Court and under Clause No.10.2 (b) of Regulation No.03 of 2016 in view of the case booked under Sec.126 of the Electricity Act against the complainant?

2. Whether the complainant is entitled for change of his service connection from Category-II to Category-III and for reduction of bill amounts from June'2023 to August'2023 as prayed for?

3. To what relief?

5. **POINT:** During the course of enquiry through the video conferencing, the complainant submit that without his knowledge the respondents changed category of his service from LT-III to LT-II and issued excess bills. On the other hand, the respondents submit that originally the service connection was issued to the consumer for the purpose of stone polishing industry but he is utilizing the supply for another purpose i.e. mineral water plant which comes under commercial activity from industrial service and hence, a case under Sec.126 of the Electricity Act was registered and the category was changed from LT- III to LT-II by assessing the shortfall back billing and issued PAO notice, but the complainant without paying the said amount filed W.P.No. 17825 of 2023 challenging the PAO order before the Hon'ble High Court of A.P in which the Hon'ble High Court of A.P. stayed all further proceedings



pursuant to the final assessment order vide case No. DPE/GTY/TDPO/15363/23 and the complainant suppressing the pendency of the writ petition before the Hon'ble High Court of A.P., filed this complaint and hence the complaint itself is not maintainable in view of pendency of writ petition. The respondents submit EX. R2 copy of interim order in W.P. No. 17825 of 2023 passed by the Hon'ble High Court of A.P.

6. We considered the submissions of both the parties carefully. Admittedly, the respondents registered malpractice case under Sec.126 of the Electricity Act since they found that the complainant is utilizing the supply for other purpose than the purpose for which he obtained the supply. Admittedly, the complainant filed W.P.No.17825 of 2023 before the Hon'ble High Court of A.P. challenging the final assessment order passed by the respondents under Sec.126 of the Electricity Act in which the Hon'ble High Court of A.P. granted stay of all further proceedings pursuant to the final assessment order.

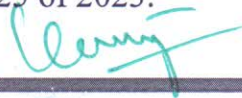
7. Clause.10.2 of Regulation.No.03 of 2016 reads as follows:

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, tribunal, 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) *In cases which fall under Secs.126, 127, 135 to 139 and 152 of the Act.*

8. Admittedly, the complainant challenged the final assessment order issued by respondents under Sec.126 of the Electricity Act before the Hon'ble High Court of A.P vide Ex.R2 W.P. No.17825 of 2023 in which the Hon'ble High Court of A.P. granted stay of all further proceedings in pursuance of the final assessment order in question issued by the respondents. Admittedly, the respondents changed the service of the complainant from Category-III to Cat-II in view of inspection and FAO order and in view of registering the case under Sec.126 of Electricity Act.
9. This Forum opines that the relief claimed in W.P.No.17825 of 2023 pending before the Hon'ble A.P. High Court and the relief claimed in the complaint is one and the same. Further, a case was registered for malpractice under Sec.126 of the Electricity Act in respect of the service connection of the complainant which is the subject matter of this complaint and hence, this complaint is not maintainable under Law and is liable to be rejected as contemplated under Clause No.10.2 (a) and (b) of Regulation. No.03 of 2016. Accordingly, the points are answered.
10. ***In the result***, the complaint is rejected. There is no order as to costs. The Respondents are directed to follow the orders of the Honourable High Court of A.P. in W.P.No.17825 of 2023.



11. The complainant is informed that if he is aggrieved by the order of the forum, he may approach the Hon'ble Vidyut Ombudsman, 3rd Floor, Plot No.38, Adjacent to Kesineni Admin Office, Sriramachandra Nagar, Mahanadu Road, Vijayawada- 08 in terms of Clause 13 of Reg.No.3 of 2016 of Hon'ble APERC within 30 days from the date of receipt of this order and the prescribed format is available in the website vidyutombudsman.ap.gov.in.

Typed to dictation by the computer operator-2 corrected and pronounced in the open Forum on this 27th day of October'2023.


27/10/2023
CHAIRPERSON


Member (Finance)
27/10/2023


Member (Technical) 
Member (Independent) 27/10/2023

Documents marked

For the complainant: Nil

For the respondents:

Exhibit No	Description of the document
R1	Copy of the Lr.No. Lr.No. DEE/O/TDP/SA/D.No.15/2023 Dt: 17.04.2023
R2	Copy of the Order of the Hon'ble High Court of A.P. in IA No.2 of 2023 in W.P. No. 17825of 2023



Copy to the

Complainant and All the Respondents

Copy Submitted to

**The Chairman & Managing Director/Corporate
Office/APSPDCL/ Tirupati.**

**The Hon'ble Vidyut Ombudsman, 3rd Floor, Plot No.38,
Sriramachandra Nagar, Vijayawada-08.**

The Secretary/Hon'ble APERC/Hyderabad-04.

The Stock file.

