



BEFORE THE VIDUYUT OMBUDSMAN FOR THE STATE OF TELANGANA

First Floor 33/11 kV Substation, Beside Hyderabad Boat Club
Lumbini Park, Hyderabad - 500 063

**PRESENT : SRI MOHAMMAD NIZAMUDDIN
VIDUYUT OMBUDSMAN**

THURSDAY THE THIRTEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

Appeal No. 51 of 2024-25

Between

Sri Myneni Sudheer, Flat No.402, Lakshmi Vihar Apartment, G-56,
Madhura Nagar, Hyderabad - 500 038. Cell: 9440678424.

..... **Appellant**

AND

1. The Assistant Engineer/Operation/Ibrahimbagh/TGSPDCL/Cyber City Circle.
2. The Assistant Divisional Engineer/Operation /Ibrahimbagh /TGSPDCL /Cyber City Circle.
3. The Assistant Accounts Officer /ERO/Ibrahimbagh/TGSPDCL/Cyber City Circle.
4. The Divisional Engineer/Operation/Ibrahimbagh/TGSPDCL/Cyber City Circle.
5. The Superintending Engineer/Operation/Cyber City Circle/TGSPDCL/Cyber City Circle.

.....**Respondents**

This appeal is coming on before me for final hearing on this day in the presence of the appellant in person and having stood over for consideration, this Viduyut Ombudsman passed the following:-

AWARD

This appeal is preferred aggrieved by the Order passed by the Consumer Grievances Redressal Forum - II (in short 'the Forum') of Telangana State Southern Power Distribution Company Limited (in short 'TGSPDCL')

in Lr. No.Chairperson/CGRF-II/Complaint Return - 24-25/D.No.682/24 dt.03.02.2025, returning the complaint.

CASE OF THE APPELLANT BEFORE THE FORUM

2. The case of the appellant is that he is the consumer of Service Connection No. 3131 10943 of the respondents. He has been watering plants in his plot bearing Sy.No.216/AA, adjacent to Lanco-Chitrapuri Road, Manikonda Jagir Village, Hyderabad and having CC cameras and one light positioned near the gate. Further he also provides water to the nearby Horse club who, in turn, waters his plants and takes care of the security of his plot. The appellant received a notice under Sec.135 of the Electricity Act (in short "the Act'). Therefore he prayed to do justice.

AWARD OF THE FORUM

3. After perusing the material on record, the learned Forum has returned the complaint holding that the Forum has no jurisdiction in respect of theft of electricity under Sec. 135 of the Act.

4. Aggrieved by the Order passed by the learned Forum, the present appeal is preferred, contending among other things, that he has not committed power pilferage and he has no intention to do it. It is accordingly prayed to direct the respondents to withdraw the notice of allegation of theft.

5. Having regard to the facts and circumstances of this case it is not necessary to issue notice to the respondents

ARGUMENTS

6. The appellant has submitted that the respondents have released the subject Service Connection to him to his plot at Sy.No. 216/AA in Manikonda Jagir Village; that though he has not involved in the offence of theft of electricity, respondent No.2 has issued a notice on 05.12.2024 demanding him to pay the assessed amount etc., and hence it is prayed to direct the respondent No.2 to withdraw the said notice.

POINTS

7. The points that arise for consideration are:-
- i) Whether the complaint is maintainable in view of Clause 2.37(b) of the Regulation 3 of 2015 of Hon'ble Telangana Electricity Regulatory Commission (in short 'the Regulation')?
 - ii) Whether the impugned Order passed by the learned Forum is liable to be set aside? and
 - iii) To what relief?

POINT No. (i) and (ii)

ADMITTED FACTS

8. It is an admitted fact that the respondents have released the subject Service Connection No. 3131 10943 to the appellant. There is also no dispute that the appellant is paying the electricity bills regularly.

CRUX OF THE MATTER

9. It appears that respondent No.2 has issued the subject notice in D.No.597 dt.05.12.2024 making allegations against the appellant that he committed theft of electricity and hence requiring the appellant to pay the assessed amount in respect of the subject Service Connection and also requiring him to pay the amount of Rs.2,000/- towards compounding fee for closure of criminal case. Now the appellant has submitted that he paid the said amount and the criminal case was compounded.

10. In the present case, it is necessary to refer to Clause 2.37(b) of the Regulation, which reads as under:-

“The Forum may reject the grievance at any stage under the following circumstances:-

- a. Where proceedings in respect of the same matter or issue 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 as the case may be;
- b. Where cases fall under Sections 126,127,135 to 139,152 and 161 of the Act;
- c. Where the grievance has been submitted two years after the date on which the cause of action arose or ceases to continue, whichever is later.
- d. In the cases, where grievances are:
 - Frivolous, vexatious, malafide;
 - without any sufficient cause; or
 - Where there is no prima facie loss or damage or inconvenience caused or to be caused to the Complainant or the consumers who are represented by an association or group of consumers.

Provided that no grievance shall be rejected in writing unless the Complainant or Association of persons has been given an opportunity of being heard.”

11. The appellant filed a copy of the Provisional Assessment Notice for theft of electricity dt.05.12.2024. According to this document one Sri K.L. Srinivas - ADE SD-I, DPE Vikarabad inspected the service on 23.11.2024 and observed that the appellant was utilising supply to run bore motor and water supplying to horse riding club by direct tapping with service wire from nearby LT OH line, thereby bypassing the energy meter and the recorded consumption in energy meter is not commensurate with connected load of the appellant. Accordingly respondent No.2 has issued a notice to the appellant alleging theft of energy under Sec.135 of the Act. In the circumstances explained in the said notice the respondents have alleged theft of electricity by the appellant. However, the appellant has denied the said allegation. The material on record, prima-facie, establishes that the present case falls under Section 135 of the Act. Under Clause 2.37(b) of the Regulation, the Forum has no jurisdiction to entertain a complaint like the present one. But the proviso to Clause 2.37 (d) of the Regulation it is necessary to give an opportunity to the consumer before rejecting the complaint. It was not done in this case. The learned Forum ought to have followed the proviso referred to above.

12. More or less in a similarly situated case very recently our own Hon'ble High Court in the judgement in Shaik Azam v. The State of Telangana

dt.13.06.2024 (W.P.No.30721 of 2021), while referring to Sec.154(5) of the Act held that the offences under Sec.135 to 139 of the Act ought to be dealt with by the Special Court to assess the liability and hence that case was referred to the Special Court so as to assess the civil liability. The Hon'ble High Court has also held that the consumer is at liberty to take all pleas which he wants to agitate before the Special Court. Keeping all these factors into consideration it is desirable for the respondents to follow Sec.154(5) of the Act and also this judgment of the Hon'ble High Court for assessing the civil liability by the Special Court (normally, 1st Additional Metropolitan Sessions Judge, Nampally, Hyderabad in case of twin cities and 1st Additional Sessions Judge in case of other districts). Therefore I hold that the complaint is not maintainable in view of Clause 2.37 (d) of the Regulation and the Order of the learned Forum is not liable to be set aside. But at the cost of repetition under the proviso to Clause 2.37 (d) of the Regulation it is necessary to give an opportunity to the consumer before rejecting the complaint. It was not done in this case. The learned Forum ought to have followed the proviso referred to above. These points are decided accordingly against the appellant and in favour of the respondents.

POINT No. (iii)

13. In view of the findings on point Nos. (i) and (ii), the appeal is liable to be rejected.

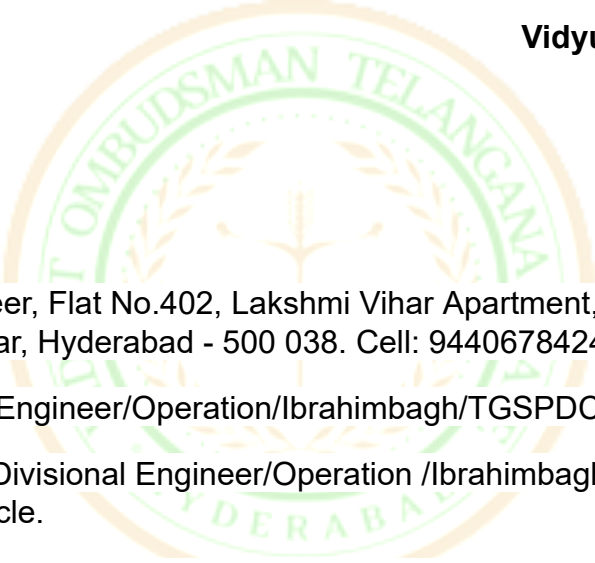
RESULT

14. In the result, the appeal is rejected, without costs confirming the Order passed by the learned Forum.

A copy of this Award is made available at <https://vidyutombudsman-tserc.gov.in>.

Typed to my dictation by Office Executive cum Computer Operator, corrected and pronounced by me on the 13th day of March 2025.

**Sd/-
Vidyut Ombudsman**

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1. Myneni Sudheer, Flat No.402, Lakshmi Vihar Apartment, G-56, Madhura Nagar, Hyderabad - 500 038. Cell: 9440678424.
 2. The Assistant Engineer/Operation/Ibrahimbagh/TGSPDCL/Cyber City Circle.
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 6. The Superintending Engineer/Operation/Cyber City Circle/TGSPDCL/Cyber City Circle.

Copy to

7. The Chairperson, Consumer Grievances Redressal Forum of TSSPDCL- Greater Hyderabad Area, Door No.8-3-167/E/1, Central Power Training Institute (CPTI) Premises, TSSPDCL, GTS Colony, Vengal Rao Nagar, Erragadda, Hyderabad - 45..