

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT PETITION No.17356 of 2014

ORDER:

Heard the learned Standing Counsel for petitioners and the learned counsel for second respondent.

2. The facts of the case are that the second respondent filed a complaint before the first respondent stating that it is a HT consumer bearing RRS No.1280 with 33 KV supply with a contracted maximum demand of 1801 KVA. The premises of the second respondent were inspected on 24.12.2010 and the category of the service connection was changed from HT Category-I to HT Category-II. Aggrieved by the same, the second respondent filed C.G.No.1152/2013-14/RANGAREDDY SOUTH CIRCLE before the first respondent. The first respondent, by its order dated 20.12.2013, passed the following order after giving due opportunity to the petitioners herein.

“ The Respondents are directed to consider the complainant company service category under HT-Category-I (Industrial) from 01.06.2011 and to withdraw excess bills raised under HT-Category-II and to adjust the excess amounts paid if any in future bills of the complainant service.

The complaint is disposed off accordingly.

The above order shall be implemented within 15 days from the date of its receipt, and compliance furnished to the forum within a week thereafter.

The complainant if aggrieved by the above order, may approach the “VIDYUTH OMBUDSMAN” situated at 4th Floor, Singareni Bhavan, Red Hills, Lakdikapool, Hyderabad-500004, within 30 days from the date of receipt of this order as per clause 9(1) of Regulation 1 of 2004 of APERC”.

Challenging the same, the petitioners filed the present Writ Petition.

3. Though the contentions of the second respondent and the petitioners were elaborately considered by the first respondent, since the issue involved in the present Writ Petition is narrow and the order of the first respondent is clear, the facts in the case are purposely omitted in the present order. The only point that survives for consideration is whether the petitioners can maintain the present Writ Petition against the order passed by the first respondent on the complaint made by the second respondent.

4. The learned Standing Counsel for petitioners submitted that there is no provision in the Electricity Act, 2003 (for short, the Act) or the Regulation made by the A.P.State Electricity Regulatory Commission (for short, the Commission) to approach any forum/authority/court, if the licensee is aggrieved by the order of the first respondent.

5. The learned counsel for the second respondent, on the other hand, submitted that since the first respondent is a creature of the statute and there is a mandatory provision binding the petitioners to follow the order passed by the first respondent, the present Writ Petition is not maintainable.

6. The first respondent is created by virtue of Sub-section (5) of Section 42 of the Act dealing with the duties of distribution licensee and open access and it reads as follows:

“42. Duties of distribution licensee and open access:-

1. ...
2. ...
3. ...
4. ...
5. Every distribution licensee shall, within six months from the appointed date or grant of licence, whichever is earlier, establish a forum for redressal of grievances of the consumers in accordance with the guidelines as may be specified by the State Commission.”

7. The Commission framed regulations in accordance with the provisions of the Act called “The Andhra Pradesh Electricity Regulatory Commission (Establishment of Forum and Vidyut Ombudsman for Redressal of Grievances of the Consumers) Regulation, 2004”. Chapter-II of the above Regulations provides for forum for redressal of grievance of the consumers. Clause (6) thereof provides for a further forum for the aggrieved complainant and it reads as follows:

“6. Non Redressal of Grievance:- If the complainant is aggrieved by the Forum within the period specified, he may make a representation to the Vidyut Ombudsman appointed or designated by the Commission as specified in Clause 9 of this Regulation.”

8. In Chapter-IV, which contains the general provisions, clause (14) is included to remedy a situation like this. It is a provision for removing the difficulties, if any and it reads as follows:

“ 14. Powers To Remove Difficulties:- If any difficulty arises in giving effect to any of the provisions of this regulation, the Commission may by general or special order, direct the licensee, the Forum and the Vidyut Ambudsman to take suitable action, not being inconsistent with the Electricity Act, 2003, which appears to the Commission to be necessary or expedient for the purpose of removing difficulties.”

9. The present Writ Petition is filed by the licensee alleging that it was aggrieved by the order passed by the first respondent. Clause 5 (11) (c) of Chapter-II of the said Regulations make it mandatory that the licensee shall duly implement the decisions and orders of the forum made in favour of the complainant, and in that view of the matter, no provision is made for the licensee to file an appeal. Clause 6 thereof enables only the aggrieved complainant to make a representation to the Vidyut Ambudsman.

10. In the absence of any provision in the Regulations and in view of the mandatory direction issued in the Regulations to implement the order of the forum by the licensee, the present Writ Petition is not maintainable and it is accordingly dismissed. No order as to costs. Miscellaneous Petitions, if any

pending, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 08.10.2015

TJMR