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Court : Andhra Pradesh State Consumer Disputes Redressal Commission SCDRC Hyderabad

Decided On : Oct-08-2009

Judge : The Hon€™Ble Justice Sri D. Appa Rao, President. Smt.M. Shreesha, Member &Amp; Sri K. Satyanand Member

Appeal No. : FA.No.1411 OF 2007 AGAINST C.D.NO.59 OF 2004 DISTRICT FORUM, SRIKAKULAM

Appellant : Sakalabhaktula Ramesh

Respondent : Assistant Engineer E.P.D.C. of A.P. Ltd. and Others

Judgement :

(Typed to the dictation of Sri K. Satyanand,Honble Member)

This is an appeal filed by the unsuccessful complainant assailing the District Forums order dismissing his complaint.

The facts that led to filing this appeal are briefly as follows:

The complainant is the owner of Nagendra Modern Rice Mill, Billumada Village, Bhamini Mandalam, Srikakulam District. In order to run his rice mill, he secured an electricity service connection from the opposite parties bearing

No.06086500120. It is his case that the said service was intended only for the business purpose. He alleged that though the opposite party for some time collected charges as per the utilized units subsequently it started collecting heavy amounts from the complainant. The complainant therefore orally requested the opposite parties to collect as per the recording of monthly power charges. While things stood thus, the opposite party sent a bill for Rs.13,607/- as consumption charges for May, 2004. The complainant requested the opposite parties to change the meter but the opposite parties did not take any action. Suddenly the opposite parties sent yet another bill on 26th June, 2004 showing the arrears of Rs.6,642/- for the month of June as also old arrears outstanding due quantified at Rs.59,024/- . Thus the said bill demanded payment of a total amount of Rs.63,109/-. The complainant did not pay the said amount as he was surprised of such a huge demand. Moreover, due to lack of funds, he apprised the opposite parties that he was unable to pay the amount immediately. Heedless of his entreaty, the department disconnected the power supply to the mill. In the bill dated 26th June 2004, the opposite parties did not mention reading of the total units. The department people had shown 1024 units in the said bill and though immediately prior thereto, he claimed to have paid arrears amount of Rs.3,836/-. He submitted that the said Modern Rice mill was a small unit and the complainant had no other source of income except earning from the rice mill. The complainant therefore filed this complaint seeking the relief of cancelling the bill amount of Rs.63,109/- besides compensation and costs.

The opposite party No.2 filed a counter obviously on behalf of all the opposite parties who are but officers at various levels of APEPDCL. The case of the opposite parties was that the recorded consumption and the billing was correct and the allegations to the contra were false. It is submitted that earlier the complainant filed a CD challenging the bill dated 26-6-2004 for an amount of Rs.63,109/-. The opposite parties narrated the facts saying that bills were issued against the SC only in respect of the consumed units and the supply was stopped on 25-5-2004 by opening incoming AV switch. The complainant lodged a complaint to the department stating that the meter was defective. Immediately the meter was tested in the presence of the complainant and found that the meter was in good working condition. He cited the consumption details showing that the

consumer had availed supply without paying CC charges. He relied upon conditions 32.3 ad 32.4 of the terms and conditions of supply to justify their action taken. Ultimately the consumption of electricity by the consumer was identified as a product of malpractice as he continued to avail supply by unauthorized connection. Earlier also the service was disconnected for non payment of CC bills, however, on orders from the Consumer Forum, the power was restored after collecting 50% of the January, 2003 bill. The demand represents the accumulation of arrears all these days. The opposite parties complained that the complainant was enjoying the electricity under interim direction of the Consumer Forum. It is ultimately submitted that there was no deficiency on the part of the department.

In support of his case, the complainant filed his own affidavit and relied upon Exs.A1 and A2. The opposite parties relied upon Exs.B1 to B4.

On a consideration of the evidence adduced on either side, the District Forum came to the conclusion that there was no deficiency in service and accordingly dismissed the complaint.

Aggrieved by the said order, the present appeal came to be filed on the usual grounds to the effect that the District Forum failed to note that the appellant was very regular in paying the bills and there were no dues from him. The District Forum failed to see that he was acquitted in the criminal case filed by the department. It also failed to see that the respondent engineered the present demand in order to wreak vengence against the appellant since he filed CD OP 11/2003 and also another CD and also sent up several grievances petitions and therefore foisted this false case against him.

The appellant filed written arguments and the respondents addressed oral arguments.

The point that arises for consideration is whether there are any good grounds to interfere with the order of the District Forum?

Though the complainant submitted in the earlier averments in the complaint that the service connection was taken for commercial purposes in the later averments,

he clearly maintained that the rice mill in question for which the service connection was obtained was the only source of his livelihood and that it was a small unit. As such there can be no hesitation to hold that the complainant answers the description of consumer. Even otherwise, Section 33(2) of the A.P. Electricity Reforms Act reads as under:

33(2): Nothing in this section or other provisions of this

Act shall in any way prejudice or affect the rights and privileges of the Consumers under other laws including but not limited to the Consumer Protection Act, 1986.

Proceeding to the merits of the case, the complainant contended that he paid off all the bills but at the same time, clamored against wrong billing. Though Exs.B1 to B4 clearly show that the conduct of the complainant was not all that straight as, in the complaint, he deliberately suppressed the earlier Consumer Disputes as also the earlier criminal proceedings under Section 39 of Indian Electricity Act, 1910 for the theft of energy. It may be true that the charge of theft of energy might have ended in acquittal but as a malpractice like unauthorized use of electricity which has got all the similarities of theft of energy sans mensrea cannot but be proceeded against. The documents relied upon by the opposite party clearly demonstrate the evidence that such proceedings were initiated. In order to show that he had paid the consumption charges regularly and promptly the complainant did not adduce any evidence.. Time and again he had been in the habit of rushing to the Consumer Forum to obtain interim orders and thrive on those orders to avert disconnection. The complainant cannot be permitted to by-pass the procedure as contemplated by the revised terms and conditions of supply as amended up to 30-1-1999 which applied as an advent of general terms and conditions by the Dist. Co. had come into force only with effect from 16-1-2006 and 4-3-2006 on which date clause 10 dealing with theft of energy had separately come into force. In any view of the matter, the complainant suppressed lot of material and filed only Ex.A1 and A2 which hardly threw any light as after all Exs.A1 and A2 are the impugned notice which required the complainant to pay the arrears amounts of which an amount of Rs.63,109/- was a subject matter of the earlier CD. When such is the case , it is obligatory on the part of the complainant to disclose as to what

happened to the said CD and otherwise this CD virtually assumes the role of adjudicating a cause already adjudicated which is simply atrocious in the administration of justice. Thus the complaint suffers from the essential particulars and the complainant is also guilty of suppressing material facts which alone would disentitle him from getting any relief. Thus we do not see any grounds to interfere with the order of the district Forum.

Accordingly the appeal is dismissed but without costs in the circumstances of the case.

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