

A.P. Transco Vs. Eden Enclave Owners Welfare Association

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Court : Andhra Pradesh State Consumer Disputes Redressal Commission
SCDRC Hyderabad

Decided On : Aug-04-2008

Judge : D. Appa Rao, President, the Honourable Mrs. M. Shreesha, Member
& the Honourable Mr. G. Bhoopathi Reddy, Member

Appeal No. : F.A. No. 597 of 2005

Appellant : A.P. Transco

Respondent : Eden Enclave Owners Welfare Association

Judgement :

D. Appa Rao, President:

Oral:

1. This is an appeal preferred by the opposite party APTRANSCO against the order of the District Forum-II, Hyderabad directing it to revise the bills and adjust the amount in the future bill besides compensation of Rs. 5,000 and costs of Rs. 1,000.

2. The case of the complainant in brief is that it is a registered flat owners association. In their premises three meters were fixed by the appellant APTRANSCO. It is having common lighting, lift and other facilities for common purpose. From November, 2003, the appellant started issuing consolidated bills for

three meters clubbing the units due to which they have been facing lot of problems. Because of consolidation, the slab charges have also been increased. Despite requests, they did not respond. Therefore, they prayed that the bills be revised and issue separate bills for three meters, and refund Rs. 1,390 besides compensation and costs.

3. The appellant did not choose to contest, despite a notice is being served on it.

4. The complainant in proof of its case filed Exs. A1 to A14 bills as well as receipts paid by them, and letter addressed to the appellant. After considering the documentary evidence placed on record, the District Forum opined that though separate meters were installed a single bill has been issued, therefore, it is a fit case to direct the appellant to revise the bills, and adjust the amount in future bills, and directed it to pay Rs. 5,000 towards compensation and Rs. 1,000 towards costs.

5. Aggrieved by the said decision, APTRANSCO preferred this appeal contending that as per Clause No. 26.7 of terms and conditions of electricity supply together with A.P. Regulatory Commission directive provide only one meter for all common purpose like common lighting, bore motor, sump motor, lift and other services into one service. It cannot be termed as deficiency of service. Since no notice was served on them, it could not contest. The proper party would be APCPDCL, Barkatpura but not the APTRANSCO. Therefore, it prayed for dismissal of the complaint.

6. It is an undisputed fact that the complainants are the owners of the flats known as Eden Enclave Apartments. They are having three separate meters. The Assistant Divisional Engineer, Barkatpura, APCPDCL issued a notice to the complainant on 31.10.2003 stating it was having three separate connections, however, in regard to the common purposes like lighting, water motor, lift, etc., there should be only one meter in terms of Clause 26.7 of the terms and conditions of Electricity Supply and directives of the A.P. Regulatory Commission, therefore, they requested to retain one service and surrender the other services and inform the same in writing within 7 days.

7. This was challenged in the complaint on the ground that if consolidated bills are given they would be placed in different slab, where they have to pay higher tariff.

8. Though a notice was issued by the A.P. Regulatory Commission, the complainant filed this case against APTRANSCO which has nothing to do with the impugned notice. The District Forum did not address this question, obviously, as the respondent did not choose to contest the matter. Learned Counsel for the appellant contended that since it has nothing to do in this regard, it did not respond, at any rate, that the appellant, whom the complainant impleaded was not having jurisdiction, did not respond. Since it had no authority in regard to the collection of amount, and it is the Asst. Divisional Engineer, Distribution, Barkatpura, APCPDCL that was having jurisdiction, he ought to have filed the case against them.

9. We may state herein that no doubt the APCPDCL issued notice threatening to terminate the service. Notice was dated 31.10.2003. It has categorically stated that it comes into effect from 31.10.2003. In other words a notice was issued on the very same day stating that the meter would be dismantled on the same date, though the notice provides seven days time.

Obviously, the said time was not adhered to. The complainant had refused to take notice. In the said notice only one service was directed to be dismantled particularly in regard to the meter showing consumption for the common purposes like bore, lift, etc.

10. The Central Power Distribution Company of A.P. Ltd., issued a circular dated 24.4.2003 directing that in the case of domestic or commercial category only one connection in single premises would be allowed. For better appreciation, we excerpt the said circular as under:

The following procedure shall be followed for the clubbing of multiple connections:

(i) On detection of Multiple Industrial Connection in a single premises, the procedure prescribed in APTRANSCO Memo No. CE (Comm)/AE/T2S/(GENL) D.No. 415/01 dated 31.5.2001 shall be followed:

(ii) In the case of Domestic/Commercial category, one week notice shall be served to the consumer in the format enclosed.

(iii) If the consumer responds before expiry of the notice period and surrenders the extra connections (keeping one), then the surrendered services shall be dismantled within a week duly serving termination proceedings and adjustment of account against retained service.

(iv) If the consumer does not respond within the notice period, one service connection (oldest) may be retained and the agreement in respect of all other services may be terminated in exercise of the power vested under Clause 26.7 of the terms and conditions of supply and the services shall be dismantled and meter should be devoluted to the stores.

(v) Pending completion of these proceedings, the bills shall be raised treating the Multiple connections as single service (i.e., the benefit of slab tariff shall be given only for one service) from the consumption month during which the Multiple connections are detected.

11. By virtue of said circular as well as Clause 26.7 of the terms and conditions of supply there should be only one meter for all common purposes like common lighting, bore motor, sump motor, and lift, etc. in an apartment.

12. The question had fallen into consideration before the Haryana State Commission between Executive Engineer, Haryana State Electricity Board v. Vidya Devi Jindal School reported in III (1998) CPJ 473. Considering the provision of Electricity Supply Act, it was held that clubbing of three separate meters was certainly in accordance with the provisions as in the same premises, separate connections for domestic supply were not admissible. The Electricity Board can demand the tariff in accordance with the rules and regulations.

13. In Gurdial Singh v. Punjab State Electricity Board, reported in II (2004) CPJ 278, it was held that when the Electricity Board intended to collect inflated rate on the ground that two meters were installed in one premises, after considering the rules in this regard the State Commission opined that if there are more than one

connection in the same premises and the same being prohibited, the existing customers either have to club their connection or opt for paying higher slab charges.

14. The jurisdiction of Consumer Forum to deal cases pertaining to the cases under Electricity Act is not in doubt. We may also refer to a decision of National Commission in Accounts Officer, Jharkhand State Electricity Board and Anr.v. Anwar Ali, IV (2007) CPJ 6 (SC)=VIII (2007) SLT 679=in R.P. No. 355/2004 and batch, the National Commission after considering the various provisions opined that Section 3 of the Consumer Protection Act and Section 175 of the Electricity Act, provide that they are in addition and not in derogation of rights under any other law for the time being in force. Therefore, the rights of the consumers under the Consumer Protection Act are not affected by the Electricity Act.

15. Sections 173, 174 and 175, make it clear that the intent of the Legislature is not to bar the jurisdiction of the Consumer Fora constituted under the Consumer Protection Act. The provisions of the Electricity Act have overriding effect qua provisions of any other law except that of the Consumer Protection Act, 1986, the Atomic Energy Act, 1962 and the Railways Act, 1989.

16. Coming to the facts seven days period was contemplated in the said notice. A notice was served on the very same day giving effect to it, contrary to the circular. Therefore, we do not uphold the notice that was issued against the complainant. It was contrary to the very circular issued by the opposite party.

17. In the result, the appeal is dismissed confirming that the impugned notice issued by APCPDCL is illegal. However, it does not prevent APCPDCL to issue fresh notice giving 7 days time as contemplated under the rules and on such notice, the complainant shall make a representation to the concerned authorities of APCPDCL, and on such representation the APCPDCL authorities are directed to dispose of the same within 15 days as per law. In the circumstances of the case each party to bear its own costs.

Appeal dismissed.