

BEFORE THE VIDYUT OMBUDSMAN

Present

**K.Sanjeeva Rao Naidu
Vidyut Ombudsman**

Dated: 10-03-2011

IA(SR) No. 1 of 2011

In

Appeal No. 57 of 2010

Between

1. Asst.Engineer/Operation/ Bhogapuram
- 2 Asst.Divisional Engineer/Operation/ Lines/Vizianagaram
3. Divisional Engineer/Operation/ Vizianagaram

... Petitioner

And

Sri P.Koteswara Rao
D.No.53-18-6/1,
Bhogapouram Mandalam,
Polipalli Gramam, Vizianagaram Dist.

....Respondent

The appeal / representation received on 21.02.2011 of the appellant has come up for hearing before the Vidyut Ombudsman on 24.02.2011 at Hyderabad in the presence of Smt.Jyothieswar.G, counsel for the appellant present and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following :

AWARD

The petitioner filed this petition u/s 151 of CPC to stay all further proceedings in pursuant to the order dt.22.01.2011 in Appeal No. 57 of 2010 passed by the

Commission pending disposal of the present review petition and pass such other order or orders as the court may deem fit and proper in the circumstances of the case.

2. In fact the petitioner has not filed this petition as review petition. The petitioner filed four copies of stay petitions. The present petition is taken as IA (SR) No. 1 of 2011 and posted for hearing on 24.02.2011. On 24.02.2011, the counsel for the petitioner appeared and requested this authority to number the petition and grant stay of operation of the order passed in the appeal no. 57/2010.

3. Now, the point for consideration is, “whether the petitioner is entitled to stay all further proceedings as prayed for”?

4. The petitioner has not filed the petition to review the order and the petitioner filed before this authority is only stay petition to stay all further proceedings of the Commission in Appeal No. 57/2010. Infact, the Commission has not passed the order / impugned order and it is Vidyut Ombudsman who passed the order in the above said appeal no. 57/2010.

5. As per the Regulation No. 1 of 2004 and amendment to the Regulation, no clause is incorporated giving power to this authority to review its own order. No appeal provision is provided in the said Regulation.

6. S.114 of CPC provides when a review can be filed and Order 47 of the Code lays down three specified grounds for reviewing a judgment. But it has been held in *Usha Ram Gupta v General Manager (1991) 2 CPJ 87* that power of review has not been conferred on the State Commission under the Consumer Protection Act.

In the *Patel Nurshi Takershi v Pradvumansinghji AIR 1970 SC 1273* it was held that

“It is well –settled that the power to review is not an inherent power. It must be conferred by law either specifically or by necessary implication. No provision in the Act was brought to our notice from which it could be gathered that the Government had power to review its own order. If the Government

had no power to review its own order, it is obvious that its delegate could not have reviewed its order. The question whether the Government's order is correct or valid in law does not arise for consideration in these proceedings so long as that order is not set aside or declared void by a competent authority."

7. It is an accepted principle that the District Forum is no more competent to review its own order and the only course open to the opposite party is to file a revision before the State Commission constituted under Consumer Protection Act (CPA) 1986. Even the State Commission (Consumer Disputes Redressal Commission) has no power to review its own order. When the State Commission under Consumer Protection Act, 1986 has no power, there is no point in urging that this authority has got power to review its own order. The State Commission constituted in the year 1986 and it is a General Act dealing with all the consumers. The Forum and this authority are constituted under the Electricity Act, 2003 which is special legislator it cannot exercise the power to review its own order in the absence of a specific provision / regulation under that Act. When there is no power to the Forum under CPA,1986, this authority is not competent to entertain the petition to review and the only remedy left next to the party is to approach the Hon'ble High Court by filing a writ petition or any other proceeding in accordance with law.

8. In fact, the petitioner has not filed a review petition. But filed only a stay petition without main petition for review the order passed in Appeal No. 57/2010. The very stay petition without review petition is not maintainable under law.

9. In the result, the petition is rejected. No order as to costs.

This order is corrected and signed on this day of 10th March 2011

VIDYUT OMBUDSMAN