



## VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA

First Floor 33/11 kV substation, Hyderabad Boats Club Lane  
Lumbini Park, Hyderabad - 500 063

:: Present:: **R. DAMODAR**

Friday, the Twenty Ninth Day of July 2016

Appeal No. 34 of 2016

Preferred against Order Dt. 17-12-2015 of CGRF In

CG.No: 484/2015 of Adilabad Circle

Between

M/s GMR Spintex Private Limited, Represented by Sri. G. Vinod(MD),  
D.No.4-12-198/2/10, GMR Towers, Cinema Road, Adilabad Dist - 504 001  
Ph.No. 08732 - 220825.

... Appellant

**AND**

1. The SAO/Circle office/Adilabad - 9440811726
2. The SE/OP/Adilabad - 9440811670

... Respondents

The above appeal filed on 23.05.2016 coming up for hearing before the Vidyut Ombudsman, Telangana State on 27.07.2016 at Hyderabad, both the Appellant and the Respondents remained absent and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

**AWARD**

The Appellant has SC No. HT ADB 247 and claimed that R&C measures were imposed from February,2013 on non open access and open access consumption of energy. The Appellant further claimed that the ERC has passed an order waiving 50% of penal charges on one time basis for all consumers under R&C measures and lodged a complaint with CGRF seeking a direction to the Respondents to waive penal charges during R&C measures period.

2. The 1st Respondent/SAO submitted a reply dt.2.12.2015 stating that the 50% of penal charges were not waived because there is a pending Writ Petition No. 56/2014 on the file of the Hon'ble High court. The CGRF, on the basis of the record, relied on Clause 2.37 of Regulation 3 of 2015 and disposed of the

complaint stating that when the same matter is pending resolution by the Hon'ble High Court, the request of the appellant to waive the penal charges cannot be considered in this case.

3. Aggrieved and not satisfied with the impugned orders, the Appellant preferred the present appeal alleging that the reasons given for dismissing complaint are not legal and that the pending Writ Petition has nothing to do with the waiver of 50% of R&C penal charges.

4. The 2nd Respondent/SE/OP/Adilabad filed a reply dt.18.6.2016 in the appeal stating that the Appellant filed Writ Petition No. 56/2014 regarding the penal charges during R&C measures and that when the subject matter is pending resolution by the Honble High Court in Writ Petition No.56/2014, the waiver of 50% of penal charges during R&C period was not considered by the DISCOM.

5. During the hearing, the representative of the Appellant reported that the Appellant was going to withdraw the Writ Petition to avail the waiver of penal charges under R&C measures. On the next hearing date, the representative of the Appellant was not able to represent on the issue of pendency of the Writ Petition. On the 3rd occasion, the Appellant's representative reported on phone that the Appellant is not in a position to withdraw the Writ Petition. If there is any Writ Petition pending on the same subject matter of the Appeal, the question of jurisdiction of Ombudsman would arise.

6. The CGRF, relying on clause 2.37 of Regulation 3 of 2015 has rightly dismissed the complaint, since the subject matter in issue between the parties is pending resolution in the Hon'ble High Court. Similarly under clause 3.19(c) of Regulation 3 of 2015 which is as follows:

“ The representation by the complainant, in respect of the same grievance, is **not pending** in any proceedings before any court, tribunal or arbitrator or any other authority; a decree or award or a final order has not been passed by any such court, tribunal, arbitrator or authority”

Only then, the Ombudsman would get jurisdiction. Otherwise in view of the aforementioned clause of Regulation 3 of 2015 which is similar to the one applicable to the CGRF, the Ombudsman would not get jurisdiction to decide such matter, as the subject matter is pending resolution in the Hon'ble High Court

7. When the Appellant is not prepared to invoke the jurisdiction of the Ombudsman for resolution of the subject matter in dispute, there is no authority to this institution to resolve the dispute.

8. Under the circumstance, the Appeal is dismissed confirming the impugned orders dt.17.12.2015.

TYPED BY CCO, Corrected, Signed and Pronounced by me on this the 29th day of July, 2016.

Sd/-

**VIDYUT OMBUDSMAN**

1. M/s GMR Spintex Private Limited, Represented by Sri. G. Vinod(MD),  
D.No.4-12-198/2/10, GMR Towers, Cinema Road, Adilabad Dist - 504 001  
Ph.No. 08732 - 220825
2. The SAO/Circle office/Adilabad - 9440811726
3. The SE/OP/Adilabad - 9440811670

**Copy to:**

4. The Chairperson, CGRF, TSNPDCL, Nakkalagutta, Hanamkonda, Warangal.
5. The Secretary, TSERC, 5th Floor, Singareni Bhavan, Red Hills,Hyderabad.