

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Shri Mukhtiyar,
S/o Allah Rakha
Ponta Road, Herbetpur,
Distt. Dehradun, Uttarakhand

Vs

The Executive Engineer,
Electricity Distribution Division,
Uttarakhand Power Corporation Ltd.
Vikasnagar, Dehradun, Uttarakhand

Representation No. 32/2022

Order

Dated: 24.11.2022

Being aggrieved with Consumer Grievance Redressal Forum, Garhwal Zone (hereinafter referred to as Forum) order dated 02.09.2022 in his complaint no. 75/2022 before the said Forum, against UPCL through Executive Engineer, Electricity Distribution Division, Vikasnagar, Dehradun (hereinafter referred to as respondent) Shri Mukhtiyar S/o Allah Rakha, Ponta Road, Herbetpur, Dehradun has preferred this appeal with the request that the appeal be admitted and the disputed assessment be waived off.

2. The aforesaid petitioner has submitted the instant petition dated 03.10.2022 along with an affidavit. He has stated that he has got duly sanctioned commercial connection at his premises at Ponta Road, Herbetpur and bills are regularly being paid. The staff of respondent visited his premises in the month of February 2022 and have informed him that his premises is being inspected as his connection is to be categorized under KCC. Respondent staff visited his premises a number of times, when he visited respondent's office for depositing bill online it came to his notice that a penalty amounting to Rs. 1,96,594.00 has been imposed through the bill. On enquiry from UPCL office it was told that his commercial connection was found being used for industrial purpose for 22.10 KW load, so the penalty has been imposed. He is not a well educated person and does not



know or understand the regulations and the Act. The staff visited his premises a number of times but he was never informed about any irregularity at his connection. A complaint no. 75/2022 was lodged with Forum which was dismissed by the Forum vide order dated 02.09.2022, hence the instant appeal.

Shortcomings in Forum order leading into the appeal

- i) Forum's order dated 02.09.2022 is against law and is liable to be set aside.
- ii) The aforesaid order have been passed without providing any opportunity of hearing to him so it is liable to be set aside.
- iii) He has defended his case in the complaint lodged before the Forum and he is not at fault. He is not an educated man but has been depositing bill timely. Forum's order is against law.
- iv) The Forum has dismissed his complaint being out of jurisdiction under sub regulation 3.1. (4) of UERC regulations, 2019 as mentioned in the said order but it is against facts. The Forum has all rights to hear and decide the complaint under the said notification.
- v) He has given the definition of complaint as given under para 1.2 (1) (d) of the relevant regulation. It is therefore clear that his complaint comes under the definition of complaint and the Forum has the rights to hear and decide such a complaint on merits.
- vi) The Forum has misinterpreted the provisions of sub regulation 3.1(4) of UERC regulations, 2019. So his case was not out of Forum's jurisdiction.
- vii) The notice given by the department under section 126 is against law so sub regulation 3.1. (4) of UERC regulations, 2019 is not applicable. It was mandatory under section 126 (5) to intimate the duration of unauthorized use of electricity by him, which was not intimated and penalty amounting to Rs. 1,96,594.00 has been imposed for a period of 12 months. The notice does not have any reference of section 126 (6).
- viii) He wanted to submit all the facts before the Forum about the case but no opportunity of hearing was provided to him and the complaint has been dismissed against law. Provisions of section 126 have not been complied with properly.




The petitioner has prayed that his appeal be admitted, opportunity of hearing be given to him and reliefs requested for may be granted.

3. The Forum after perusal of records and hearing both parties has concluded that the subject matter of the complaint pertains to unauthorized use of a commercial connection by using it for industrial purpose. As such the Forum is not authorized to hear and decide such a case as per provisions of sub regulation 3.1(4) of UERC (Guidelines for Appointment of Members and Procedure to be Followed by the Forum for Redressal of Grievances of the Consumers) Regulations, 2019 and hence they have dismissed the complaint being out of their jurisdiction.
4. The respondent executive engineer has submitted a point wise reply vide letter no. 4047 dated 15.10.2022 as follows:
 - i) The petitioner Shri Mukhtiyar has a 10 KW commercial connection no. VN0K0000450906.
 - ii) SDO Herbetpur visited the petitioner's premises on 23.02.2022 and during inspection it was found that the petitioner's commercial connection was being used for industrial purpose. Checking report no. 25/09 dated 23.02.2022 has been adduced by the respondent which clearly shows that 22.10 KW load was found being used for industrial purpose at the time of checking.
 - iii) Based on the checking report assessment amounting to Rs. 1,96,594.00 was raised through an entry in the bill for the month of July 2022 in accordance with section 126 of Electricity act, 2003. The total outstanding dues ending 09/2022 has reached to Rs. 2,69,779.00.
 - iv) Complaint no. 75/2022 was lodged by the petitioner before the Forum against the said assessment. The Forum dismissed the complaint vide order dated 02.09.2022 being out of their jurisdiction in terms of sub regulation 3.1. (4) of UERC Regulations, 2019.
 - v) The petitioner has not deposited the amount of assessment neither he has paid regular monthly bills since the month of July 2022.

In view of his above submissions the respondent has requested that no stay be granted to him and order may be issued for payment of the assessment amount and pending bills by the petitioner.

5. The petitioner has submitted a rejoinder dated 31.10.2022. He has inter alia submitted that 50% of the assessment amount has duly been deposited by him as a condition of the interim stay, granted by Hon'ble Ombudsman. No new facts of the case has been submitted in the rejoinder and submissions in the rejoinder are only repetitions of his averments made in the appeal.
6. Hearing in the case was conducted on scheduled date 16.11.2022. Both parties appeared and argued their respective case and admitted that 50% of the assessment amount as ordered in the interim stay dated 06.10.2022 has duly been deposited by 31.10.2022.
7. Records and documents available on file were perused and arguments from both parties were heard. It is proved to be an established case of unauthorized use of electricity under section 126 of Electricity Act, 2003. Checking has been conducted by the SDO, who is duly authorized for conducting checking in such cases and assessment has been raised by the Executive Engineer in his capacity as assessing officer under the Act. The Forum has rightly concluded that the case being of unauthorized use of electricity as per section 126 of electricity act is out of their jurisdiction as per sub regulation 3.1 (4) of UERC regulations, 2019 and has rightly dismissed the complaint. The cases of unauthorized use of electricity does not form a complaint as per sub regulation 2 (1) (f) (i) of UERC (Appointment and functioning of Ombudsman) Regulations, 2004. Such being a case of unauthorized use of electricity under section 126 of Electricity Act, 2003, does not come under the jurisdiction of CGRF Ombudsman mechanism and therefore no order in the instant case can be passed by Ombudsman on merits. The petition is therefore disposed off without passing any orders on merits. Forum order is upheld. The interim stay granted on 06.10.2022 stands vacated.

Dated: 24.11.2022


Subhash Kumar)
Ombudsman