

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Smt. Usha Kiran
W/o Shri Prakash Chandra
Mitr Colony, Choti Mukhani,
Haldwani, Distt. Nainital,
Uttarakhand

Vs

The Executive Engineer,
Electricity Distribution Division (Rural),
Uttarakhand Power Corporation Ltd.
Haldwani, Distt. Nainital, Uttarakhand

Representation No. 35/2021

Order

Dated: 28.01.2022

Being aggrieved with Consumer Grievance Redressal Forum, Kumaon Zone (hereinafter referred to as Forum) order dated 25.10.2021 in her complaint no. 92/2021, before the said Forum, against UPCL through Executive Engineer, Electricity Distribution Division (Rural), Haldwani (hereinafter referred to as respondent) Smt. Usha Kiran W/o Shri Prakash Chandra, Mitr Colony, Choti Mukhani, Haldwani has preferred this petition for granting her new industrial connection.

2. The petitioner has averred that she is a permanent resident of Mitr Colony, Choti Mukhani, Haldwani, Distt. Nainital and wants to set up an industrial unit at the said premises for which she wants a 4 KW connection. She visited respondent's different offices as advised by them for submission of application for the desired industrial connection and ultimately she was advised to submit application online. All papers were submitted in sub division, Kamalwaganja on 04.03.2021. After persuasion on telephone and contacting personally Shri Shah, Junior Engineer came for inspection on 04.04.2021. He told that they have to fulfill 2 conditions for taking industrial connection. The first of them was that the connection shall be released by erecting a new pole as connection could not be given from the existing pole due to objection by

one Shri Balaram and second he did not tell and said that after completion of the first condition second condition shall be told.

3. On contacting the SDO on 07.04.2021 for not releasing connection from the existing pole in her premises the SDO informed her to first arrange to decide meter position, main switch position and to arrange 7 meter cable. After accomplishing all the 3 conditions the SDO was contacted on phone on 17.04.2021 and informed that all the works has since been completed, he informed him that JE shall be asked to visit your premises, but in spite of repeated requests on telephone and personal visits the desired connection has yet not been given. She insisted that the connection may be given from the pole already existing in her premises, but the department informed that it was not possible to give connection from the existing pole, due to objection of Shri Balaram in the premises of whom the line shall pass. She submitted that the existing pole and line is there from prior to 1994 whereas the lands were purchased by her and Shri Balaram after 2000. Non release of connection in spite of inspection and assurance given by SDO she has been sustaining financial loss.
4. Being harassed by the department and for not releasing connection she approached Forum on 13.09.2021 where her complaint was registered as sr. no. 92/2021 dated 15.09.2021. Forum decided the case, vide order dated 25.10.2021 with which she is aggrieved as the Forum did not consider her complaint and did not order to release connection from the existing pole. She has submitted that denial of the department for giving connection from the existing pole is not only a mental harassment but denial of the fundamental rights. For giving connection from the existing pole neither some expenditure required nor any extra labour or time is required. The connection can be given from the existing pole up to the meter at the place for installation of meter as indicated by her. She has been informed that for giving connection by installing another pole shall require extra expenditure time and labour. In addition to that the service line if drawn from a new pole as proposed by the department may prove dangerous to her and may also be an obstacle for further expansion of her industrial unit. She has therefore requested that order may kindly be issued for releasing 4 KW industrial connection from the existing pole. She has further requested that being a senior citizen facility of virtual hearing may be provided and if it is not possible then

she will abide by the orders, whatsoever it may be, as issued by the Hon'ble Ombudsman.

5. The Forum after perusal of the records and hearing arguments from both parties have partially allowed the complaint and ordered that the industrial connection to the complainant be given keeping in view the technicality and orders and regulations as applicable and have further directed the opposite party for submission of compliance report by 25.11.2021.
6. The respondent Executive Engineer has submitted a written submission dated 22.12.2021 along with an affidavit. The respondent has submitted that a complaint regarding release of connection was lodged by the petitioner before the Forum which is registered as complaint no. 92/2021. In the case the Forum was apprised that the complainant Smt. Usha Kiran has applied for 4 KW industrial connection and the existing pole where from she wants the connection is a pole in the de-energized line and it passes through the premises of her neighbour Shri Baliram (Balaram). This is a single phase de-energized line and its re-energization shall not be possible from safety point of view. It is further submitted that one another pole is already existing about 20-25 meters apart from the applicant's premises and connection to her can be released through a PVC cable from that pole. By giving connection as proposed the objection of Shri Baliram shall also stand removed. She had already been informed by SDO that apart from the line being de-energized her neighbour has also objected to against giving connection from that de-energized line so he has cancelled her application.
7. After hearing both parties Forum decided the case vide order dated 25.10.2021 and directed that connection may be released keeping in view the technicality and safety standards. But the applicant Smt. Usha Kiran vide her letter dated 07.11.2021 informed the respondent Executive Engineer that she would like and accept the connection only from the existing pole. The SDO Kamalwaganja reported to the respondent Executive Engineer vide his letter dated 23.11.2021 that during his inspection of the premises of the applicant on 18.11.2021 no apparatus or appliances were found installed for taking industrial connection and she was therefore advised to get necessary appliances installed but, the SDO, Kamalwaganja reported vide his letter dated 21.12.2021 that as per his inspection of the site no appliances as required

for her industrial connection has yet been installed and as such registration dated 27.11.2021 for giving industrial connection has been cancelled.

8. The petitioner has submitted her rejoinder dated 03.01.2022 along with an affidavit. Apart from reiteration of the contents of her appeal, she has denied the respondent's averment that the existing pole and line in her premises is de-energized and this is passing through the premises of Shri Baliram. She has purchased the land in the year 2002 on which she got her house constructed and connection in his house was taken from the same pole which is erected in her premises, so objection of Shri Baliram is also not maintainable. As regards installation of appliances, main switch and position of installation of meter are duly installed/indicated and have been informed to the respondents, but the respondents are trying to escape from their duty to give the connection. The cancellation of registration by the respondents on 27.11.2021 is baseless and against her fundamental rights. She has requested that the appeal be admitted and the respondents be directed to release connection from the existing pole only.
9. Hearing in the case was held on scheduled date 18.01.2022. SDO concerned appeared on behalf of the respondent. The petitioner appeared virtually. Both parties argued their respective case. The petitioner again insisted for giving connection to her from the existing pole only. In order to have a clear picture of the existing pole and line and the proposed pole and line from which the respondents are proposing the connection, the respondents were asked to submit a line diagram and a clear report by 25.01.2022. The respondent Executive Engineer accordingly submitted the desired line diagram and report vide his letter dated 320 dated 22.01.2022 which has been perused and taken on record.
10. The records available on file have been perused. Arguments from both parties were heard. It is borne out that Smt. Usha Kiran had applied for a 4 KW industrial connection. She insisted for getting the connection from a pole already existing in her premises. The respondents submitted that it was not possible for giving the connection to the petitioner from the existing pole firstly for the reasons that this is a de-energized line and secondly it passes through the premises of her neighbour Shri Balaram (Baliram) who has already objected for giving the connection from this pole for security point of view as also it will create an obstruction for construction of

building by Shri Baliram in his premises. The department proposed to give the connection to the petitioner by installing a new pole about 15-20 feet apart at the boundary of Shri Baliram under the existing main LT line to which the complainant Shri Baliram has agreed and has no objection however, the petitioner still insisted for giving connection to her only from the existing pole. For not agreeing to the department's proposal for giving the connection by installing a fresh pole at no extra cost and for not installing necessary appliances for taking the industrial connection, the registration for new industrial connection applied for by the petitioner was cancelled.

11. While the adamant attitude and insisting for giving connection to her only from the existing pole and the line which according to the department is de-energized and giving connection from this existing pole shall not be possible for security point of view as also due to objection of her neighbour Shri Balaram, is not desirable and is causing hindrance in release of the connection to her, the departments action for cancellation of the registration of the application for connection applied for by the petitioner is a noncompliance of Forum's order who have directed to release connection after analyzing the technicality and site conditions. And not only that but, it is also in violation of section 43 of the Electricity Act, 2003 which makes it mandatory on the licensee (the respondent UPCL in the instant case) to give connection to an applicant or occupier of the premises who so applies for a connection.
12. Further it is appropriate to mention here that the Hon'ble Supreme Court vide its judgment dated 02.09.2011 in Civil Appeal no. 7575 of 2011 has clearly directed that the distribution licensee has statutory obligation to supply electricity to an applicant as provided for under section 43 of the Electricity Act, 2003.
10. In view of above legal provisions cancellation of the application of the petitioner for a 4 KW industrial connection is in violation of the aforesaid legal provision and therefore the cancellation order by the respondents is turned down. Further petitioner constant insistence for giving connection from the existing pole is undesirable interference in respondent's jurisdiction while it is mandatory for the respondent to give a connection to any applicant, it is also their jurisdiction as to how and from which point of the LT network, a connection is to be given, such being the case, they

(the respondents) are directed to release connection to the petitioner by installing a new pole under the existing main 3 phase LT line as shown and proposed vide their letter no. 320 dated 22.01.2022, of-course without any extra cost to the petitioner. The applicant shall be charged overhead service line charges and security as per relevant UERC (Electricity Supply Code, Release of New Connection and Related Matters) Regulations, 2020 as applicable in the instant case as provided for in table no. 3.4 of the said regulations. They are directed to release the connection within 15 days from the date of this order. The petition is allowed except petitioner's adamant attitude for taking connection from the existing pole. Forum order stands modified as above.

Dated: 28.01.2022

(Subhash Kumar)
Ombudsman