

**THE ELECTRICITY OMBUDSMAN, UTTARAKHAND**

M/s Diamond Flour Mill  
Bhagwanpur, Jashpur,  
Distt. Udham Singh Nagar, Uttarakhand

Vs

The Executive Engineer,  
Electricity Distribution Division,  
Uttarakhand Power Corporation Ltd.  
Jashpur, Distt. Udham Singh Nagar,  
Uttarakhand

Representation No. 44/2024

**Award**

Dated: 20.02.2025

Present appeal/ representation has been preferred by the appellant against the order of Consumer Grievance Redressal Forum, Udham Singh Nagar Zone, (hereinafter referred to as Forum) dated 14.10.2024 in complaint no. 172/2024-25 by which Ld. Forum has dismissed the complaint of appellant M/s Diamond Flour Mill, Bhagwanpur, Jashpur, Distt. Udham Singh Nagar (petitioner) against UPCL through Executive Engineer, Electricity Distribution Division, Uttarakhand Power Corporation Ltd., Jashpur, Distt. Udham Singh Nagar, Uttarakhand (hereinafter referred to as respondent).

2. The present representation dated 07.11.2024, has been preferred by the petitioner Mr. Gulfam on behalf of his Firm M/s Diamond Flour Mill. The petitioner has averred that he has a 75 KW connection at his above firm and is engaged in commercial business. He informed the respondent vide his letter dated 15.05.2019 that he is receiving monthly bills on higher side. Officials of UPCL visited his premises on 20.06.2019, their finding was that MRI was not being supported by the meter. The respondent however took no action and did not replace the meter. From February 2020 and onwards on account of lockdown work in his factory came to a complete stand still. On 19.01.2023 through a call he was informed that 2 officials of the respondent had arrived at his Flour Mill and had opened the meter. When he visited the premises the meter was found already opened. These officials harassed him and

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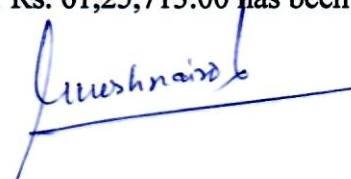
asked him to pay a sum of Rs. 10,00,000.00 which he refused. Later on they asked to pay Rs. 7,00,000.00, which was also denied (There is no evidence for the same). He has further mentioned that at the time of reading the meter, the officials themselves opened the meter and closed it. These officials intentionally tampered the seals of the CT box, in the absence of the petitioner to his disadvantage. They disconnected the supply. A provisional bill amounting to Rs. 61,25,713.00 was received by him vide respondent's letter no. 142 dated 20.01.2023 (Annexure 4) along with direction to submit his points on the said assessment. Later on the provisional assessment was revised and a final assessment of Rs. 61,25,713.00 was issued.

3. The petitioner has also mentioned that he has approached the Hon'ble High Court who directed to approach the District Magistrate under article 127 of Electricity Act, 2003. Details of correspondence made by him with Senior Officers of UPCL, District Magistrate, who directed first the SDM to enquire into the matter again asked the Superintendent Engineer to look into the matter and decide it. Having found no solution he approached the Forum with a complaint registered as no. 172/2024-25 and the Forum after perusal of records and hearing the parties dismissed the complaint vide their order dated 14.10.2024, mentioning that being a case of theft is out of Forum's jurisdiction and thereafter he has preferred the instant appeal. He has referred sub regulation 5.1.4 (1), (3), (6), 5.1.3 (7) & (8) of UERC Supply Code regulation 2020. He has also referred Hon'ble High Court order in WP MS no. 1945 of 2021 as also Hon'ble Ombudsman's order dated 26.02.2020 in case no. 03/2020 and has claimed that the case of theft has been leveled against him with malafide intentions and the case laws as well as relevant UERC regulations mentioned in his appeal support his case and in the premises made in the appeal he has prayed that

- a. Call for records and case file of the complaint before Forum
- b. Quash and set aside assessment of Rs. 61,25,713.00
- c. Pass any order and directions as deemed fit and proper.

He has substantiated his averments on the basis of documents which has been adduced with the appeal as annexure no. 1 to 25.

4. After perusal of records and hearing arguments from both parties, the Forum observed that the case pertains to the theft of electricity which comes under section 126 and 135 of Electricity Act, 2003 and an assessment for Rs. 61,25,713.00 has been raised by the

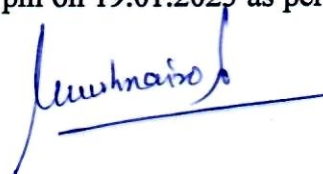




opposite party in terms of sub regulation 3.1.1 (4) of UERC (Guidelines for appointment of Members and Procedure to be Followed by the Forum for Redressal of Grievances of the Consumers) Regulation 2019, the Forum has no jurisdiction to hear the cases coming under section 126 and 135 of Electricity Act, 2003. Further the Hon'ble High Court directed the complainant to approach to DM concerned, where he could not submit 50% of the assessed amount, such being the case the complaint is not maintainable before the Forum and is liable to be dismissed. As such the Forum dismissed the complaint vide its order dated 14.10.2024.

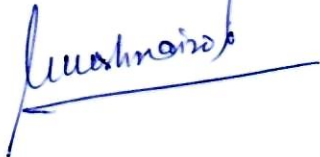
5. The respondent Executive Engineer, Jashpur has submitted a written statement vide letter no. 4607 dated 20.12.2024 Point wise reply has been submitted as follows: -

- i. Point No. 01, the averment is not based on facts. A team of UPCL officers conducted a checking as per report dated 19.01.2023 at the premises of M/s Diamond Flour Mill, Jashpur. Tampering with the meter was found in checking. A provisional assessment based on the aforesaid checking report in accordance with UERC Regulation, 2020 on account of theft/pilferage of energy at his aforesaid connection having contracted load 89 KVA was raised and sent to the consumer vide letter no. 142 dated 20.01.2023 with the request for payment of the said assessment.
- ii. Point No. 02 (i to vii) Averment is not based on facts. The consumer's connection no. KNO30600 contracted load 75 KW exists at Nevar Mandi, Jashpur. In response to consumer's application dated 15.05.2019 SDO concerned was directed for further necessary action in the matter. In compliance of which site inspection was done by the SDO vide sealing certificate no. 25/5 dated 20.06.2019 in which it was found that "MRI not supported, no reason for replacement of meter was found in the sealing". bills were being issued on meter unit which were duly being paid by the consumer without any complaint or objection.
- iii. Point No. 02 (viii to ix). The consumer submitted his explanation against the provisional assessment but no complaint has ever been made regarding asking a bribe from him. Neither any documentary evidence for the same has been adduced.
- iv. Point No. 02 (ix to xiii) A checking at the consumer's connection no. KNO30600 was carried out at 12:30 pm on 19.01.2023 as per checking report



dated 19.01.2023. During inspection seal of the meter box was opened. Seal of CT box was also opened on observing no current in 02 phases in the meter in which tampering with the seals of CT box was found and CT was found shorted. MRI of the meter was done as also a video was taken in the mobile. The connection was disconnected and the metering cubical was taken into custody after sealing in presence of consumer's representative. Theft of electricity was found being done at consumer's premises. The consumer was asked vide letter no. 142 dated 20.01.2023 that if he has any objection on assessment Rs. 61,25,713.00 raised under section 126 of Electricity Act, 2003 and UERC Regulation 2020 for theft of electricity, he may make such an objection within 07 days failing which the assessment shall be confirmed and the same be paid within 07 days and receipt thereof be made available. The consumer submitted his view vide his letter dated 28.01.2023 in person but did not submit any documentary evidence in support of his submission. So, the provisional assessment Rs. 61,24,713.00 was made the final assessment vide order 195 dated 28.01.2023 and on nonpayment of the said amount section 03 notice was issued vide letter no. 220 dated 30.01.2023.

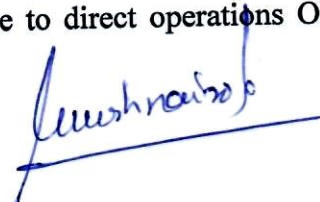
- v. Point No. 02 (xiv to xvii) regarding consumer's submission on these points, the respondent has submitted that action in the matter has been taken by other department and therefore no reply has to be given by him.
- vi. Point No.02 (xviii to xxii) regarding petitioner's averment it is submitted that the documents as were available were already made available to him and he was also apprised about the documents which were not available in the office. The final assessment was sent to him vide OM No. 195 dated 28.01.2023. The copy of the same order was again made available to him as he informed that the final assessment was yet not been received by him.
- vii. Point No.02 (xxiii) The provisional assessment notice was sent to him vide no. 142 dated 20.01.2023 with the request that if he has any objection or has to submit anything the same may be submitted within 07 days. He submitted his view in person on 28.01.2023 vide his letter dated 28.01.2023 but no documentary evidence in support of his submission. Consequently the provisional assessment was made final vide OM 195 dated 28.01.2023.
- viii. Point No. 02 (xxiv to xxxi) it is submitted that in compliance to DM Udham Singh Nagar's letter no. 11556 dated 19.07.2023 the SE, EDC Kashipur asked





for the information regarding documents and action taken in the matter vide his letter no. 1864 dated 31.08.2024, the desired information documents were submitted to him vide letter no. 3147 dated 05.09.2024. SE, EDC Kashipur vide his letter no. 1464 dated 25.07.2023 informed the DM that in accordance with Government order no. 76 dated 01.11.2003 and no. 78 dated 02.11.2004 cases pertaining to section 127 of Electricity Act, 2003 are to be disposed of by the DM.

- ix. Point No. 02 (xxxii) regarding petitioner's averment it is informed that a committee consisting of three members was constituted by direct operation UPCL vide OM No. 1313 dated 19.03.2024 for enquiry into the matter. The committee inspected the documents on 07.06.2024 in office of EDD, Jashpur. Opportunity was also given to the complainant Shri Gulfam, S/o Shri Mohd. Taliq of M/s Diamond Flour Mill, Jashpur and submitted their confidential report.
- x. Point No. 02 (xxxiii) with regard to petitioner's averment, it is informed that a writ petition no. 3314/ WPMS/2023 was preferred by the petitioner before the Hon'ble High Court Nainital. Hon'ble High Court passed order dated 07.03.2024 in the matter wherein direction was issued to DM Udham Singh Nagar to consider petitioner's appeal on merits if filed with bank guarantee amounting to 50% of the assessed amount. Further only for a period of three weeks no cohesive steps shall be taken against the petitioner however, if petitioner fails to file appeal within the stipulated period along with bank guarantee the respondents shall be at liberty to proceed against the petitioner as per law. The DM Udham Singh Nagar forwarded a copy of Hon'ble High Court order dated 07.03.2024 vide his letter no. 451 dated 15.04.2024 and asked to inform him the action taken on Hon'ble High court order in writ petition no. 3314/2023. The consumer and the answering respondent was directed to be present before DM, Udham Singh Nagar in compliance to Hon'ble High Court order dated 07.03.2024 but the said hearing before DM was adjourned for not depositing 50% of the assessed amount as bank guarantee.
- xi. Point No. 02 (xxiv to xxvi) it is submitted that the enquiry committee submitted its report in compliance to direct operations OM No. 1313 dated 19.03.2024.





- xii. Point No. 03 to 06 as per checking report it was found during checking that the seals of meter box was broken and having found no current in two phases of the meter the seal of CT box was also broken and it was found that CT boxes were tampered CT were shorted. MRI of the meter was done also a video was made through mobile the connection was got disconnected and metering cubical was taken in custody duly sealed. The consumer was given opportunity to submit his view on the assessment the consumer preferred a writ no. 3314/2023 before Hon'ble High Court the Hon'ble High Court directed the consumer to vide his order dated 07.03.2024 to deposit 50% bank guarantee which was not deposited till now. DM order personal presence of the answering respondent and the consumer in compliance to Hon'ble High Court order dated 07.03.2024, the hearing was adjourned for not depositing 50% bank guarantee by the consumer. Assessment u/s 126 has been raised for theft of electricity u/s 135 of Electricity Act, 2003. The respondent has substantiated his averment with documentary evidences enclosed with the
6. A rejoinder has been submitted by the petitioner dated 15.01.2025. No new facts has been adduced. It is a repetition or reiteration of his averments made in the petition.
7. Hearing in the case was fixed for 06.02.2025. Both parties appeared and argued their respective case. In addition to his oral submissions the petitioner also submitted a written argument dated 06.02.2025. He has also submitted a copy of letter dated 20.09.2024 from the Hon'ble Governor's Secretariat issued by Major Sumit Kumar Shadija, परिसहाय श्री राज्यपाल, addressed to DM Uddham Singh Nagar (this has no concern of Ombudsman). These two documents have been taken on record.
8. After hearing arguments from both parties, perusal of documents available on file as well as in Forum's case file and perusal of relevant sections 135, 127 and 126 of Electricity Act, 2003. It is borne out that a checking at the premises of the petitioner was carried out on 19.01.2023 consisting a team of EE (Distribution), EE (Test), SDO (Distribution), AE (Test), JE (Distribution) and JE (Test). A sealing certificate no. 21/218 dated 19.01.2023 was also filled up by the aforesaid team at consumer's premises itself. In the checking report it has been written that consumer has refused to sign, wherein it was detected a case of theft of electricity and FIR was also lodged with Police Station on 19.01.2023 as informed by SDO and a copy of which also

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submitted. Provisional assessment of Rs. 61,25,713.00 was raised which was subsequently finalized for the same amount vide respondent's office order no. 195 dated 28.01.2023. As the assessed amount was not deposited, notice under section 3 of Dues Recovery Act was issued vide letter no. 220 dated 30.01.2023. Based on documentary evidences it is established to be a confirm case of theft of electricity, which is a cognizable offence under section 135 of Electricity Act, 2003 and is therefore out of Ombudsman's jurisdiction in terms of sub regulation 2.1. (f) (2) of UERC (Appointment and Functioning of Ombudsman) Regulations, 2004. Further it is also borne out that the petitioner has failed to comply with Hon'ble High Court's orders as he did not deposit the 50% of the assessed amount with D.M. as mandated under section 127 (2) of Electricity Act, 2003 even by BG as allowed by the Hon'ble High Court. Such being the case of theft, the Ombudsman cannot decide the case on merits.


### Order

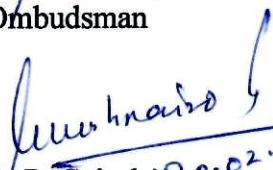
In view of above facts of the case the petition is disposed off without passing any order on merits. The Forum is not empowered to entertain and decide the case of theft of electricity under section 135 of Electricity Act, 2003 as per sub regulation 3.1.1 (4) of UERC (Guidelines for Appointment of Members and Procedure to be Followed by the Forum for Redressal of Grievances of Consumers) Regulation, 2019. As such the Forum order stands amended as per this order. No order for costs.

Dated: 20.02.2025

Order signed dated and pronounced today.

Dated: 20.02.2025

  
(D. P. Gairola) 20.02.2025  
Ombudsman

  
(D. P. Gairola) 20.02.2025  
Ombudsman