

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Sardar Harjeet Singh
M/s Amrit Auto
Sant Bhawan, Aryanagar, Jwalapur,
Haridwar, Uttarakhand

Vs

The Executive Engineer,
Electricity Distribution Division,
Uttarakhand Power Corporation Ltd.
Jwalapur, Haridwar,
Uttarakhand

Representation No. 25/2023

Order

Dated: 31.10.2023

Being aggrieved with Consumer Grievance Redressal Forum, Haridwar Zone, (hereinafter referred to as Forum) order dated 06.06.2023 in complaint no. 58/2023 before the said Forum, against UPCL through Executive Engineer, Electricity Distribution Division, Uttarakhand Power Corporation Ltd., Jwalapur, Haridwar, Uttarakhand (hereinafter referred to as respondent), Sardar Harjeet Singh, M/s Amrit Auto, Sant Bhawan, Aryanagar, Jwalapur, Haridwar, Uttarakhand (petitioner) has preferred this appeal for setting aside Forum order and the assessment raised by the respondent.

2. The petitioner Sardar Harjeet Singh has preferred this appeal against Forum order dated 06.06.2023 in his complaint no. 58/2023 before the said Forum. The petitioner has averred that he has a connection no. JW0K000011077. A bill amounting to Rs. 2,41,978.46 for the period 01.01.2022 to 02.01.2023 has been issued by the respondent on account of slow running of meter. He has further submitted that the connection was given to him after due checking of the meter. No tampering or foul play with the meter was alleged by the respondent and the meter was removed and taken away by the respondent duly sealed and the assessment as aforesaid has been raised on the basis of slow running of the meter. The allegation is completely false and wrong. Against the said bill he submitted an application dated 27.02.2023 to the



respondent for correction of the bill but they did not do anything and therefore a complaint was made to the Forum which was registered as complaint no. 58/2023. The Forum however dismissed the complaint vide their order dated 06.06.2023, which is liable to be dismissed on the grounds that no tampering in the meter was found by the respondent. The basis of slow running of meter is not established and the assessment has been raised on false grounds. He has prayed that in view of the facts of the case order dated 06.06.2023 passed by the Forum and the assessment raised by the respondent amounting to Rs. 2,41,978.46 be set aside and quashed.

3. The Forum has observed that the complaint made by the complainant is against the assessment raised by opposite party on account of slow running of meter by 29.61% based on the MRI tamper report on Y phase as confirmed in check meter study conducted from 08.12.2022 (date of check meter installation) to 02.01.2023 (date of finalization of check meter) wherein main meter was found running slow by 29.61% with reference to the check meter. Based on the check meter study an assessment amounting to Rs. 2,41,979.00 was raised by opposite party for a period of 12 months in accordance with sub regulation 5.1.3 (10) (a) of UERC regulation, 2020 which appears to be correct and in view of their observations they have dismissed the complaint.
4. The respondent Executive Engineer has submitted a written statement dated 12.07.2023 along with an affidavit on oath. He has submitted as follows:
 - i) On showing Y phase voltage 0 (zero) in MRI report of meter no. 07159557 installed at the petitioner's service connection no. JW0K000011077 on his connection of 45 KW/53 KVA load. A check meter no. 22224348 was installed on petitioner's existing meter vide sealing certificate no. 1149/39 dated 08.12.2022
 - ii) The check meter was finalized vide sealing certificate no. 44/1149 dated 02.01.2023. The existing meter no. 07159557 was found running slow by 29.61% with reference to the check meter in the check meter study.
 - iii) Based on the check meter study and MRI report showing 0 (zero) voltage on Y phase, assessment for the period 01.01.2022 to 02.01.2023 was raised and added in the bill for the month of January 2023.

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iv) The assessment was raised for a period of 12 months in accordance with sub regulation 5.1.3 (10) (a) of UERC regulation 2020.

v) The following objections were raised by the petitioner before the Forum at the time of hearing on 28.04.2023.

“जिस पिरियड के समय का बिल डाला गया है उस समय लोकडाउन कल स्थिति थी व कम्पनी का कार्य भी 4 या 5 सदस्य द्वारा ही लिया जा रहा था।

एवं आपको यह भी अवगत कराना है कि मेरे बिल पर दो साल बाद बिल डालने का कोई भी नियम नहीं है।”

vi) In reply to the complainant's (petitioner) the Forum was apprised vide letter no. 2039 dated 06.05.2023 that lockdown was from April 2020 till April 2021, while assessment on the basis of check meter was raised for the period 01.01.2022 to 02.01.2023.

5. The respondent has substantiated his submissions with the following documentary evidences.

i) Sealing certificate no. 1149/39 dated 08.12.2022.

ii) Sealing certificate no. 1149/44 dated 02.01.2023.

iii) Y phase voltage failure tamper report

iv) Calculation of assessment based on check meter study.

v) Copy of letter no. 746 dated 07.02.2023.

vi) Copy of letter no. 1844 dated 21.04.2023 sent to the Forum.

vii) Copy of Shri Harjeet Singh's letter dated 28.04.2023.

viii) Letter no. 2039 dated 06.12.2023 written to the petitioner in reference to his letter dated 28.04.2023.

6. The petitioner has submitted a rejoinder dated 25.08.2023 along with an affidavit under oath. In the rejoinder apart from the contents of his petition and mentions of Forum orders of different dates in the order sheets, the petitioner has made the following submissions.

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- i) As mentioned under sub regulation 4.1 of UERC regulation 2019 the rules which are mentioned in Consumer Protection Act, 1986 shall also be applicable as such in the matters relating to electricity department. Section 36 of Consumer Protection Act provides that in each hearing of the complaint it is mandatory that the chairperson and one of the member shall hear such complaint but in the instant case the complaint was registered under the orders of only one member.
7. The petitioner has specifically mentioned that sub regulation 5.1.1 (3) , 5.1.3 (2), 5.1.3 (5) have not been complied with in conducting the check meter study and raising assessment on the basis of such study. He has also submitted that copy of check meter study was not given to him and neither regulations were complied with.
8. Hearing in the case was fixed for 11.09.2023, which was adjourned for 29.09.2023 on petitioner's request. Due to unavoidable reasons the hearing could not be held on 29.09.2023 also which was further postponed for 17.10.2023. The hearing was therefore conducted on 17.10.2023. Both parties appeared and made their oral arguments. The arguments were concluded with mutual consent and 31.10.2023 was fixed for pronouncement of order.
9. Arguments from both parties were heard on scheduled date 17.10.2023, documents available on file have been perused. It has been found that having observed voltage tamper in the MRI report showing 0 (zero) voltage on Y phase, the respondent installed a check meter on 08.12.2022 which was finalized on 02.01.2023. The installed meter was found running slow by 29.61% in the said check meter study and the respondent raise the assessment amounting to Rs. 2,41,978.46 through an entry in the bill for the month of January 2023, for the period 01.01.2022 to 02.01.2023 on account of existing meter running slow by 29.61% with reference to the check meter in accordance with sub regulation 5.1.3 (10) (a) of UERC regulation, 2020. The Forum relying upon respondent's submissions dismissed the complaint no. 58/2023 vide its order dated 06.06.2023.
10. The petitioner has challenged the check meter study, assessment raised on the basis of such check meter study and Forum's order dated 06.06.2023 on the grounds as mentioned in the petition as well as in rejoinder in which the petitioner has interalia challenged the check meter study and the assessment for non compliance of sub

regulation 5.1.1 (3), 5.1.3 (2), 5.1.3 (5) of UERC regulation, 2020. Under para 13 of the rejoinder the petitioner has submitted that in the check meter study no allegation for any tampering and foul play with the meter has been alleged by the respondent and the petitioner has further submitted that it is the responsibility of the respondent to keep the meter running in correct condition, as per sub regulation 5.1.3 (5), however, they have misquoted the sub regulation which in fact is sub regulation 5.1.1(6) The regulations quoted by the petitioner which were mandatory and have not been complied with by the respondent are reproduced below:

"5.1.1 (3) Licensee shall have the option of installing the meter at the consumer's premises or outside the premises such as on pole/boundary of premises etc. Where meter has been installed outside the consumer's premises, the responsibility of safe custody of metering unit shall lie with the Licensee. Where meter has been installed at the consumer's premises, the responsibility of keeping the meter under safe custody shall be with the consumer.

Provided that where the Licensee installs the meter outside the premises of the consumer, then the Licensee shall provide real time display unit/home display unit at the consumer premises on the request of the consumer on chargeable basis at the rates determined by the Commission from time to time in its orders, for his information to indicate the electricity consumed by the consumer, Provided further that for the billing purpose, reading of consumer meter and not the display unit shall be taken into account.

5.1.1. (6) It shall be the responsibility of Licensee to maintain the meter and keep it in working order at all times.

5.1.3 (2) All the meter test labs shall have CCTV surveillance system.

5.1.3 (5) The Licensee shall, within 30 days of receiving the complaint, carry out testing of meter as per the procedure specified in these regulations and shall furnish duly authenticated test results to the consumer. The consumer shall be informed of proposed date and time of testing at least 2 days in advance.

Provided that where Licensee is installing a test/check meter along with the meter under test for verification of energy consumption, in such cases the Licensee shall be

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required to provide a copy of the valid test report of such test/check meter to the consumer before initiating the testing."

11. A perusal of the records and documents available on case file shows that no documentary evidences has been adduced by the respondent to show that the above mentioned sub regulations which are mandatory, have been complied with by the respondents in conducting check meter study and raising of assessment on the basis of such study and therefore the petitioner's objections are sustained and respondent's case fails. Further Hon'ble High Court of Uttarakhand in writ petition no. 1069 of 2021 states ***"In view of the fact that there was a procedural flaw and the Consumer Grievance Redressal Cell, had simplicitor directed to refund the amount, which was held to be wrongfully determined by the petitioners, to be made payable towards the electrical consumption, which was imposed made on the respondent/consumer and which was imposed on account of the slow meter, which it had directed that they may proceed with but only after compliance of the provision of Clause 3.1.3 of the 2007 Regulations of UERC. Hence, as such I am of the view that since a very assessment itself was not foundationed as per the Regulation of 2007, this Court is not willing to exercise its supervisory jurisdiction under Article 227 of the Constitution of India."***

The relevant Sub-Regulations 2007 have now been replaced by UERC Regulations 2020 and therefore the case law is attracted in the instant case.

12. In view of non compliance of aforesaid regulations and as also in view of Hon'ble Uttarakhand High Court's above mentioned case law, the check meter study, its results declaring existing meter slow by 29.61% and assessment amounting to Rs. 2,41,978.46 raised through an entry in the bill for the month of January 2023 based on such study results are held null and void for non-compliance of relevant UERC Regulations and the assessment is therefore quashed and set aside and so is the Forum order. Petition is allowed.

Dated: 31.10.2023


(Subhash Kumar)
Ombudsman