

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Smt. Sangeeta Bauthiyal
W/o Shri Naresh Chandra Bauthiyal
Village Jamri Kathal,
Tapovan, Muni Ki Reti,
Distt. Tehri Garhwal, Uttarakhand

Vs

The Executive Engineer,
Electricity Distribution Division,
Uttarakhand Power Corporation Ltd.
New Tehri, Uttarakhand

Representation No. 45/2022

Order

Dated: 27.02.2023

Being aggrieved with Consumer Grievance Redressal Forum, Uttarkashi/Tehri Zone (hereinafter referred to as Forum) order dated 26.12.2022 in her complaint no. 115/2022 before the said Forum, against UPCL through Executive Engineer, Electricity Distribution Division, New Tehri (hereinafter referred to as respondent) Smt. Sangeeta Bauthiyal W/o Shri Naresh Chandra Bauthiyal Village Jamri Kathal, Tapovan, Muni Ki Reti, Distt. Tehri Garhwal has preferred this appeal for releasing a temporary connection applied for by her on 17.11.2022.

2. The petitioner has averred that she had applied for a temporary connection on 17.11.2022 online. Necessary documents as desired were also submitted to SDO office on 18.11.2022, but SDO UPCL, Muni Ki Reti did not release the connection to her and therefore filed a complaint before the Forum. The said Forum dismissed her complaint vide order dated 26.12.2022. The said Forum had passed its order without application of judicious mind and against the very purpose for which Forum was constituted and has passed the said order against law. The Forum also did not follow the guidelines provided in UERC regulation, 2019 regarding appointment and procedure to be followed by the Forum for redressal of grievances. Further the Forum has wrongly interpreted section 3.1 of the said regulation. The subject matter of the



instant case is regarding release of connection to the applicant Smt. Sangeeta Bauthiyal. She has stated that no case regarding the above subject matter is pending in any other Court or Forum or Commission, neither she has ever approached to Scheduled Caste Commission and Human Rights Commission, Dehradun for release of the connection applied for. The Forum has violated the fundamental rights of the petitioner as provided under clause 14 and 21 of Constitution of India by dismissing her complaint for giving connection. She has also stated that issue of orders for release of connection expeditiously to her, is necessary in the interest of justice. The Forum passed order dated 26.12.2022 relying upon the false statements of Executive Engineer, EDD, Tehri and the order passed by Forum is an irregularity, she has therefore prayed that the Hon'ble Ombudsman may kindly order to release the connection applied by her for protection of her fundamental rights. She has also submitted an affidavit on oath with the petition and a copy of Forum's above referred order.

3. The Forum in their order dated 26.12.2022 have mentioned that after hearing both parties and perusal of facts, the Forum found that this complaint was earlier filed before the Forum by Shri Naresh Chandra Bauthiyal vs Executive Engineer, Tehri as complaint no. 70/2022 which was dismissed after perusal of the facts. The Hon'ble Ombudsman also dismissed the petition vide order dated 24.11.2022, where it was also mentioned that the case is also pending before the Human Rights Commission and Rights of Service Commission. The opposite party informed that there is a dispute on the land where the connection has been applied for and the opposite party has informed that complainant had filed a case before Uttarakhand Scheduled Caste Commission and Uttarakhand Human Rights Commission where it is pending, so it is clear that the matters related to the complaint are pending in other Forums also and under the circumstances of the case this Forum is not competent to hear the case. The Forum has also referred sub regulation 3.1 of UERC regulation, 2019, dated 22.01.2019 under which also the Forum cannot decide the case and the Forum had therefore disposed off the complaint without passing any orders on merit.
4. The respondent, Executive Engineer submitted his written statement vide letter no. 175 dated 19.01.2023, wherein he has submitted that Smt. Sangeeta Bauthiyal W/o Shri Naresh Chandra Bauthiyal had applied for a temporary connection, a temporary



connection was earlier applied for at the same premises by Shri Naresh Chandra Bauthiyal. It was found that there is a land dispute at the premises between the applicant Shri Naresh Chandra Bauthiyal and Shri Jai Singh S/o Shri Keshwa, presently Smt. Sangeeta Bauthiyal W/o Shjri Naresh Chandra Bauthiyal has applied for the temporary connection at the same premises. He has further submitted that a case for not giving connection at the land where connection has been applied is pending before Uttarakhand Schedule Caste Commission and Human Rights Commission, Dehradun. He has further stated that Ombudsman has passed order dated 24.11.2022 in petition no. 34/2022 of Shri Naresh Chandra Bauthiyal.

5. The petitioner has submitted a rejoinder with affidavit under oath dated 28.01.2023. She has stated that it is admitted that she had applied for a temporary connection before Electricity Distribution, sub division, Muni Ki Reti and she has also admitted that an application for a connection was also submitted by her husband Shri Naresh Chandra. She had denied other contents of the written statement saying that such contents are not related with her and her case. Apart from above she has also submitted the following special submissions:

- i) She has been living without an electricity connection at her residence in village Jamri Kathla, Tapowan, Muni Ki Reti, Distt. Tehri Garhwal for a long time and as such she had applied a connection which is urgently required for her.
- ii) Her fundamental rights are being violated by land mafias and departmental officers under a connivance.
- iii) Agriculture land with Khata Khautoni no. 3 and 5 is existing in village Jamri Kathla, Tapovan, Muni Ki Reti, Distt. Tehri Garhwal in the name of her husband, Shri Naresh Chandra Bauthiyal. She has alleged that the Executive Engineer, the OP and other officers/officials by ignoring the facts of revenue records and Parliamentary Act are exploiting her fundamental rights.
- iv) The Hon'ble Supreme Court in its order in a Criminal Appeal no. 810 of 2022 arose out of special leave petition (CRL) no. 8917 of 2019 of Shri Satish and others has passed order clarifying that electricity is a basic need and it cannot be denied to any person, copy of the said judgment have also been adduced.

Further the Hon'ble Kerala High Court in their judgment dated 15.03.2021 in WP no. 34061 of 2014 GKN Ravindra Nathan Ayer Cuki Kalra State Electricity Board or others had clarified that Electricity is the basic need. Water and electricity is a right of life under Section 21 of Constitution of India and therefore in the light of above case laws, the connection is requested to be given to her. In the premise above she has requested that her appeal be admitted and order be passed for expeditious release of connection for protection of her fundamental rights.

6. Hearing in the case was held on prescheduled dated 20.02.2023. The petitioner appeared herself along with her husband Shri Naresh Chandra Bauthiyal as an authorized representative. The respondent was represented by their counsel. Both parties orally argued their respective case. The counsel for the respondent apart from oral submissions also submitted a written argument and abstract copy of sub regulation 3.1 of UERC regulation, 2019. Shri Naresh Chandra Bauthiyal also submitted a copy of interim order dated 02.09.2022 of District and Session Judge, Tehri Garhwal wherein execution of order dated 12.08.2022 of Court of Pargana Magistrate, Narendra Nagar, Tehri has been stayed till the next date of hearing i.e. 21.09.2022.
7. Arguments from both parties were heard, record available on file has been perused. Firstly it is clarified that the facts of the petition no. 34/2022 of Shri Naresh Chandra Bauthiyal decided by the undersigned vide order dated 24.11.2022 are different from the instant case and therefore the ratio decidendi which were applied in the case of Shri Naresh Chandra Bauthiyal shall not apply in the present case.

As regards the question of sanction/release of temporary connection to the petitioner Smt. Sangeeta Bauthiyal, it is clarified that the following provisions in the Act and relevant UERC regulations shall apply.

- i) Section 43 of Electricity Act, 2003: Under this section the Licensee (UPCL here) is duty bound to give a connection to a person whether owner or occupier of the premises, whosoever applies for such a connection.
- ii) Sub regulation 3.2 (Temporary connection) of UERC regulations, 2020: Release of temporary connection to any applicant is governed under the




above sub regulation and therefore a temporary connection to any applicant has to be given in accordance with the aforesaid sub regulation.

iii) Further the case laws of Hon'ble Supreme Court and Hon'ble Kerala High Court adduced by the petitioner have also clarified that electricity being a basic need of life cannot be denied to any person, whosoever has applied for the same to the Licensee.

8. In view of above statutory provisions, regulations and judgments of Hon'ble Supreme Court and Hon'ble High Court, Kerala, the temporary connection to the petitioner in the instant case cannot be denied. The respondents are therefore directed to take necessary action for releasing the temporary connection to the petitioner, Smt. Sangeeta Bauthiyal expeditiously but in any case within 15 days from the date of this order, in accordance with the aforesaid UERC regulation, 2020. The petition is allowed. Forum order dismissed.

Dated: 27.02.2023


(Subhash Kumar)
Ombudsman