

## THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Smt. Suman Singhal  
W/o Shri Pradeep Singhal  
72/6, Near Woodland Showroom,  
Haridwar Highway, Roorkee,  
Distt. Haridwar, Uttarakhand

Vs

The Executive Engineer,  
Electricity Distribution Division (Urban),  
Uttarakhand Power Corporation Ltd.  
Civil Lines, Roorkee, Distt. Haridwar,  
Uttarakhand

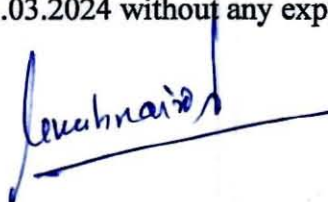
Representation No. 17/2024

### Award

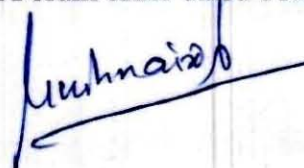
Dated: 11.11.2024

Present appeal/ representation has been preferred by the appellant against the order of Consumer Grievance Redressal Forum, Haridwar Zone, (hereinafter referred to as Forum) order dated 11.03.2024 in complaint no. 05/2024 by which Ld. Forum has allowed the complaint of appellant Smt. Suman Singhal W/o Shri Pradeep Singhal, 72/6, Near Woodland Showroom, Haridwar Highway, Roorkee, Distt. Haridwar (petitioner) against UPCL through Executive Engineer, Electricity Distribution Division (Urban), Uttarakhand Power Corporation Ltd., Civil Lines, Roorkee, Distt. Haridwar, Uttarakhand (hereinafter referred to as respondent).

2. The petitioner, Smt. Suman Singhal has submitted the instant representation dated 11.04.2024, wherein she has averred as follows:
- i) The appeal is being preferred as first appeal, no case is pending in any Forum or Court on the same subject.
  - ii) The Forum passed order dated 11.03.2024 in her appeal before the said Forum with which she is not satisfied and hence the present appeal.
  - iii) The Forum passed its order dated 11.03.2024 without any explanation.



- iv) The Forum passed its order without taking cognizance of the written arguments filed by her advocate before the Forum.
- v) The meter at her connection no. 680K000026944 is installed outside her premises, so she is not responsible for the meter as per UERC regulation, 2020 and the respondent is fully responsible for any irregularity found in the meter. The Forum did not make any comment about this in its order dated 11.03.2024.
- vi) The sealing certificate was not got signed by the petitioner or her representative, so the action of the respondent is illegal and in contravention to supply code regulation, 2020, so action against the respondent for violation of regulation is required to be taken. Videography of the sealing of the meter was not done as no evidence was adduced before the Forum till date of order, which indicates the malafide intention of the respondent. In spite of that the Forum passed order dated 11.03.2024.
- vii) The respondent violated the regulations, which suggests that the respondent played some foul play with the meter. The Forum did not take any cognizance of that action of the respondent in its order dated 11.03.2024.
- viii) The petitioner has been making payment of all the bills regularly. The respondents have been harassing her for past some time and have been trying to charge additional amount illegally.
- ix) On visiting respondent's office in the month of January 2024 for depositing the bill, the respondent asked her first to pay the earlier bills.
- x) The respondents forcibly entered in her premises and were bent upon to disconnect supply of her connection and without complying with Forum order dated 11.03.2024, issued a bill for Rs. 2,20,806.00 which she duly paid on 21.03.2024.
- xi) She was got operated for cancer on 27.03.2024 in Rajeev Gandhi Cancer Hospital, Rohini, New Delhi in which an expenditure of about Rs. 8,00,000.00 was incurred.
- xii) The respondent has made contempt of Forum order dated 11.03.2024.



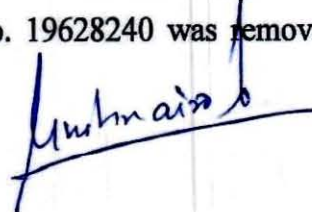


xiii) She apprehends that the respondents have made some foul play with the meter, so the meter be got checked by some independent authority.

xiv) She is entitled to get compensation under supply code regulation 2020.

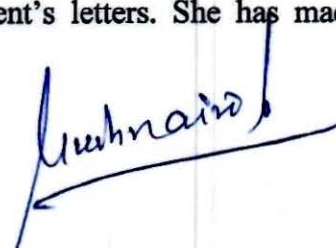
**Prayers:**

- a) Forum order dated 11.03.2024 be set aside.
  - b) Compensation Rs. 5,00,000.00 and advocate's fees Rs. 17,500.00 total Rs. 5,17,500.00 be sanctioned as requested for in written argument dated 15.02.2024 before the Forum, in her complaint no. 05/2024 before the said Forum.
  - c) Action against the respondent be taken for contempt of Forum order dated 11.03.2024, harassing her by the respondent.
3. After perusal of records and hearing arguments from both parties, the Forum observed that assessment for 141 days has been raised for slow running of meter, based on MRI and tamper report, while as per load survey report the B phase voltage was low/0 (zero) was found from 23.05.2023 to 26.07.2023 and based on load survey report the Forum made out a table showing total 65 no. of days from May 2023 to July 2023 on which B phase voltage was missing. Having observed as above the Forum was of the opinion that assessment amounting to Rs. 82,977.00 for 141 days as per OM no. 237 dated 22.07.2024 was required to be revised for 65 days as shown in the table. In view of its above observations the Forum allowed the complaint and directed the opposite party to withdraw the assessment Rs. 82,977.00 made by the opposite party and raise fresh assessment for 65 days as worked out by the Forum in the aforesaid table.
4. The respondent, Executive Engineer has submitted his written statement along with an affidavit wherein he has submitted as follows:
- i) The respondent is posted as Executive Engineer in EDD (Urban) Roorkee and is fully aware with the facts of the case.
  - ii) Based on M/s YMPL checking report, Electricity Test Lab Roorkee installed check meter no. 51326229 at the premises of the petitioner on 19.06.2023.
  - iii) The check meter was finalized by AE Electricity Test Lab Roorkee on 26.07.2023, wherein the old meter no. 19628240 was removed which was



found running slow by 26.93% in KVAH (low B phase voltage). The test lab Roorkee sent a sealing certificate to his office vide letter no. 141 dated 13.10.2023.

- iv) Assessment for Rs. 2,51,466.00 was raised for a period of 1 year while OM no. 5179 dated 06.11.2023 by adding in the bill and billing ledger.
  - v) The petitioner raised oral objections on the aforesaid assessment, where after on receiving tamper report the assessment was revised to Rs. ,82,977.00 for a period of 141 days while OM no. 237 dated 22.01.2024.
  - vi) The consumer filed a complaint no. 05/2024 against the said assessment before the Forum.
  - vii) The Forum decided the complaint vide its order dated 11.03.2024, wherein the Forum directed to issue revised assessment for 65 days.
  - viii) In compliance to Forum order the bill was revised after reducing by Rs. 26,356.00 and sent a revised bill for Rs. 2,20,806.00 while letter no. 1395 dated 30.03.2024. The petitioner deposited the said amount Rs. 2,20,806.00 and the Forum was also apprised vide letter no. 1712 dated 25.04.2024.
  - ix) The respondent has submitted that the submissions made from point no. i) to viii) were correct to his knowledge and no facts about the case has been concealed.
  - x) He has substantiated his submission with documents viz sealing certificate dated 19.06.2023, 26.06.2023, consumer ledger from 01.04.2023 to 24.01.2024, copy of Forum order dated 11.03.2024 copy of OM no. 1395 dated 03.03.2024 and letter no. 1712 dated 25.04.2024 and consumer history from 04/2023 to 12/2023.
5. The petitioner has submitted her rejoinder dated 14.05.2024. At the outset she has raised objection on respondent's letter no. 1712 dated 25.04.2024. She has alleged that the respondents have been acting against the laws and making violation of regulations, which is evident from respondent's letters. She has made point wise averments as follows:

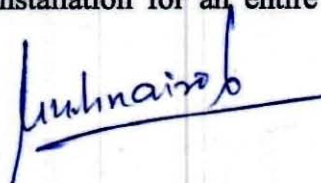




- i) The Forum ordered to withdraw assessment Rs. 82,977.00, which was made for 141 days and directed to issue revised assessment for 65 days. The respondent did not comply the Forum's order timely.
- ii) The fabricated documents have been submitted by the respondent before Hon'ble Ombudsman. The respondent raised assessment Rs. 56,621.00 vide letter no. 1712 dated 25.04.2024 without any evidence.
- iii) The petitioner has been making payments of bills regularly, no dues were outstanding against her, till Forum's order. She has mentioned the matter related to her operation of cancer in Rajeev Gandhi Cancer Hospital and in her absence, while she was in hospital, they forcibly entered in her premises and disconnected the supply of her connection.
- iv) The respondent made contempt of Forum's order and without any evidence raised assessment Rs. 56,621.00 vide their letter dated 1712 dated 25.04.2024.
- v) A detailed bill was not given to her, which is in violation of regulations.
- vi) From the documents submitted by the respondent before Hon'ble Ombudsman, she came to know that excess amount was being realized from her against her connection no. 680k000026944 in violation of UERC regulations, 2020 under chapter 5.1.2.
- vii) The action of respondents for sealing the meter without getting the certificate signed by her or her representative is illegal and in violation of sub regulation 5.1.3 of UERC supply Code regulation 2020, so action against the respondent is liable to be taken for such violation.
- viii) She alleged that the respondents played foul play with her meter and charged excess amount, which is in violation of supply Code regulation 2020 under chapter 5 and she is liable to get compensation.
- ix) She alleged that she apprehends the working of the respondents and by misusing his official capacity the respondent have been harassing her. She has requested that the Hon'ble Ombudsman would kindly order to adjust the excess amount deposited by her in the bill of April 2024.



- x) She has requested that her meter be got checked by some independent authority.
  - xi) The Hon'ble Ombudsman may kindly direct the respondent not to disconnect her connection till disposal of the instant appeal.
  - xii) Hon'ble Ombudsman may kindly order strict legal action against the respondents for making violation of UERC supply code regulation, 2020.
6. 11.09.2024 was fixed for hearing, which was adjourned for 25.09.2024 on the request of the respondent through their counsel. Both parties appeared on the scheduled date 25.09.2024. Respondent's counsel submitted application for adjournment of hearing date so next date was fixed for 30.09.2024. Both parties appeared for arguments on 30.09.2024 and both argued their respective case. The petitioner submitted a written argument also, copy of the same was handed over to the respondent. The respondent made oral submission seeking time for submission of written arguments, which was allowed. Arguments were concluded and judgment was reserved.
7. The counsel for respondent submitted written argument on 09.10.2024 as follows, a copy of which was sent to the petitioner vide letter no. 1330 dated 14.10.2024.
- i) At the outset the representation filed by the petitioner against Forum order dated 11.03.2024 is not only unsustainable but is based on mere surmises and conjectures, lacking any legal or logical foundation.
  - ii) The petitioner has filed this representation to evade its responsibility to pay outstanding dues thereby attempting to cause an unlawful loss to the respondent, further more the impugned order has already been complied with by the respondent rendering the present appeal infructuous.
  - iii) A check meter was installed on 19.06.2023 and finalized on 26.07.2023 wherein it was determined that the meter was running 26.83% slow.
  - iv) The petitioner has raised a frivolous argument claiming no knowledge of installation of check meter. It is essential to note that the petitioner operates a restaurant on the premises, making it implausible that the petitioner would remain unaware of the check meter installation for an entire month. This






clearly demonstrates that the petitioner has approached the Hon'ble Ombudsman with unclean hands.

- v) The check meter was finalized on 26.07.2023 yet the petitioner filed a complaint before the Forum in December 2023. The question arises as to why the petitioner waited nearly 5 months to raise an issue, if it had genuine grievances regarding respondent's action.
- iv) It is an admitted fact by the petitioner that meter was slow by 26.83% as recorded both in the check meter reading and on the sealing certificate. This fact remained unchallenged by the petitioner and therefore, the appeal is not maintainable in the eyes of law.
- vii) There is no dispute regarding authenticity of finding that the meter was slow. The grounds raised in this appeal are entirely frivolous.
- viii) In para 3 of the representation the petitioner argues that the impugned order was not written in simple language for justifying the appeal, this is an untenable ground for setting aside the impugned order.
- ix) In para 6 of the representation the petitioner alleges that the respondent violated rules and regulations of supply code 2020 yet fails to specify which particular rules were allegedly breached.
- x) In para 9 of the representation, petitioner claims that the respondent demanded payment of outstanding dues, however the petitioner has not explained what illegality the respondent committed in making this request.
- xi) In para 12 of the representation she alleges that the respondent violated the impugned order passed by Forum, it must be clarified that the respondent did not violate the impugned order and has, in fact, complied with it. Furthermore she has itself challenged the impugned order and therefore cannot claim the respondent has violated it.
- xii) A bare perusal of the representation reveals that the petitioner has failed to demonstrate any irregularity in the impugned order.

**Compliance with the impugned order.**



- xiii) It is essential to note that the respondent has complied with the impugned order as evidence by the letter dated 30.03.2024 which revise the bill to Rs. 2,20,806.00 notably the petitioner has already paid this bill, therefore the appeal is infructuous and should be dismissed.

**Untenable oral arguments of the petitioner**

- xiv) It is necessary to state that the petitioner is not aggrieved with the impugned order itself but by the fact that no illegal compensation was awarded to the petitioner, which is evident from the reliefs sought in the appeal .
- xv) The petitioner has a history of delaying payment of bills and is now attempting to justify its conduct under the dues of seeking reliefs from Hon'ble Ombudsman.
- xvi) During the course of arguments and based on its pleading the petitioner has failed to demonstrate any illegality in the impugned order or in the respondent's conduct.
- xvii) The petitioner sole argument was that she was undergoing medical treatment when the respondent raised the bill, this fact cannot serve as grounds to set aside the impugned order.
- xviii) In light of the aforementioned facts and circumstances, it is evident that the petitioner has failed to present any valid grounds for setting aside the impugned order therefore it is respectfully submitted that the Hon'ble Ombudsman be pleased to dismiss the representation filed by the petitioner.
8. The petitioner did not submit any reply to the respondent's written argument, however she submitted in original 2 nos. cheques no. 728540 and 728541 for Rs. 61,481.00 and 3,04,137.00 respectively vide her letters dated 11.10.2024 and 26.10.2024 which were returned to her in original vide this office letter no. 1360 dated 30.10.2024 as these cheques were wrongly sent to this office because there is no provision in any law or regulation for making payment of UPCL's bills through Ombudsman.
9. All documents available on file have been perused. Hearing from both parties were heard and the written arguments submitted by the respondent has also been perused and taken on file. Relevant UERC regulations as applicable in the instant case have

*Amrinder*



also been gone through. Judgment of Hon'ble High Court of Uttarakhand dated 10.06.2021 in WP no. 1069 of 2021 which is similar to the instant case has also been referred.

10. The petitioner's case is that as the check meter was neither installed nor finalized in her presence as these sealing certificates does not carry her signature or that of her authorized representative and neither a copy of these sealing certificates have ever been given to her by the respondent and further no relevant UERC regulations as are applicable in her case have been followed by the respondents, the assessment raised by the respondent alleging her meter running slow by 26.93% or 26.83% as mentioned as somewhere by the respondent, firstly amounting to Rs. 2,51,466.00 for a period of 1 year vide OM dated 06.11.2023 which was further revised to Rs. 82,977.00 for a period of 141 days vide OM dated 22.01.2024 on the basis of tamper report and was further ordered to be revised to Rs. 56,621.00 for 65 days by the Forum vide its order dated 11.03.2024 on the basis that the B phase voltage was low or missing only for 65 days in the months of May, June and July 2023 and revised by the respondent vide OM dated 30.03.2024 in compliance to Forum's order. None of these assessments are justified as relevant UERC regulations have not been followed in conducting check meter study and raising these assessments. Her instant petition is against Forum order dated 11.03.2024 in compliance of which the assessment has finally been revised to Rs. 56,621.00. The petitioner has however paid a sum of Rs. 2,20,806.00 which includes Rs. 1,64,185.00 towards the current bill and Rs. 56,621.00 the revised assessment amount vide receipt dated 31.03.2024 and as such the petitioner's request is that Forum order and the assessment should be set aside.
11. On the other hand the respondent's case is that as indicated in YMPL study the consumer's meter was not working correctly and as such they installed a check meter on 19.06.2023 vide sealing certificate no. 12/19 dated 19.06.2023 and finalized vide sealing certificate no. 19/19 dated 26.07.2023. None of these sealing certificate carries consumer signature but the respondents claimed that it cannot be believed that installation and finalization of sealing certificates were not in the notice of the petitioner, however this submission is without any evidence. As reported by the test lab on the basis of these sealing certificates the existing meter was found running slow by 26.93% and assessment amounting to Rs. 2,51,466.00 was initially raised on the basis of slow running of meter for a period of 1 year in accordance with regulations

*Lehnaish*



vide OM dated 06.11.2023 which was revised to Rs. 82,977.00 vide OM dated 22.01.2024 for a period of 141 days on verbal request of the consumer and based on MRI tamper report which indicated B phase voltage missing or slow and further under the orders of the Forum dated 11.03.2024 in consumer's complaint the assessment was revised to Rs. 56,621.00 as the Forum worked out that the B phase voltage was low or missing only for 65 days during the month of May June and July 2023 and accordingly this amount was included in the monthly bill of total Rs. 2,20,806.00 including current bill Rs. 1,64,185.00 and assessment Rs. 56,621.00, was sent to the consumer, which she paid vide receipt dated 31.03.2024 at her own and therefore her appeal is not maintainable and is liable to be dismissed.

12. In order to arrive at a decision in the case it is desirable to see that the relevant UERC Regulations, 2020 which are being reproduced hereunder have been followed by the respondent in conducting check meter study and raising assessment on the basis of such study.

#### **5.1.3 Testing of Meters**

1. The meter test labs of the licensee shall be NABL accredited or it shall utilize the services of other accredited testing labs till labs get NABL accredited.
2. All the meter test labs shall have CCTV surveillance system.

#### **5.1.3 (5)**

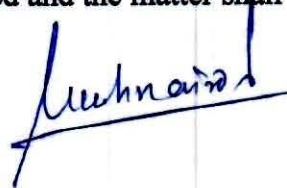
Provided that where the licensee is installing a test/check meter along with the meter under test for verification of energy consumption, in such cases the licensee shall be required to provide a copy of the valid test report of such test/check meter to the consumer before initiating the testing.

#### **5.1.3 (11)**

Wherever the testing of meter is being done, signature of the consumer, or his authorized representative, if present, would be obtained on the Test Report and a copy thereof shall be supplied to the consumer.

#### **5.1.3 (12)**

If the consumer or his representative disputes or refuses to sign the test report, the defective meter shall not be replaced and the matter shall be decided either



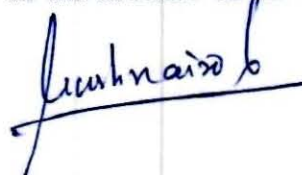


(a) upon the application of consumer, by CGRF or Electrical Inspector or any authorized third party, who shall test the correctness of the meter and give results within one month; or (b) upon the application of licensee, by Electrical Inspector or any authorized third party, who shall test the correctness of the meter and given results within one month.

The decision of the Electrical Inspector or CGRF or such authorized third party, as the case may be, shall be final and binding on the Licensee as well as the consumer. The licensee shall keep record of all such meter tests and submit to the Commission the exception reports in every 6 months.

As is evident from the sealing certificates dated 19.06.2023 and 27.06.2023 for installation and finalization of check meter study respectively. These certificates do not carry consumer's signature so it is established that the consumer was not made to witness installation and finalization of check meter also no evidence has been adduced by the respondents to show that the consumer refused to sign these certificates and as such it is established that the check meter was installed and finalized in consumer's absence and without any intimation to the consumer for showing respondent's intention to carry out this check meter study. As such the consumer was deprived to avail the right under sub regulation 5.1.12.

Further as provided under proviso to sub regulation 5.1.3(5) valid test reports of the check meter had to be given to the consumer before initiating the check meter study. No evidence is available on the file that test results of the check meter were given to the consumer before imitating of check meter study. Although UPCL's test lab at 18, E.C Road, Dehradun was duly accredited by NABL as intimated by Director Operation UPCL vide his letter no. 4384 dated 01.11.2023 and further vide his letter no. 4681 dated 28.11.2023 intimating that the aforesaid lab has duly been accredited by NABL vide its letter no. NABL/T8780 dated 23.10.2023 even then a valid test certificate of the check meter has not been adduced by the respondent before undersigned. In the absence of which the veracity of check meter is not certified and installed meter declaring slow by 26.93% in reference to a meter installed as check meter, whose veracity is not certified in the absence of its valid test report



from a NABL accredited lab, cannot be upheld to be a basis of raising assessment. As such a check meter study its results are set aside and as test was not carried out in accordance with the aforesaid sub regulations of UERC Supply Code, 2020 and as such the assessment either raised vide OM dated 06.11.2023 for Rs. 251466.00 and further revised to Rs. 82977.00 vide OM dated 22.01.2024 are quashed and set aside. Further the Forum's order dated 11.03.2024 directing the respondent to revise the assessment for a sum of Rs. 56621.00 for 65 days on the basis of the methodology developed by the Forum itself as its own violation, which is not consistent with any UERC Regulation, is set aside and Forum order is also liable to be set aside. As also the revised assessment amounting to Rs. 56621.00 raised vide OM dated 30.03.2024 in compliance to Forum order 11.03.2024 is also liable to be set aside.

The view and the principle narrated above is also supported by the Hon'ble Uttarakhand High Court in its judgment dated 10.06.2021 in writ petition no. 1069 of 2021 wherein the Hon'ble High Court has clearly held that since a very assessment itself was not foundationed as per Regulation 2007, this Court is not willing to exercise its supervisory jurisdiction under Article 227 of Constitution of India.

UERC Regulation 2007 has since been repealed by UERC Regulation, 2020 which also has the same provision in the similar cases.

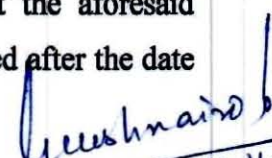
### Order


The petition/ representation is allowed. All the assessments raised as referred to above are set aside and quashed. Forum order is also set aside. Further the respondents are directed to refund any amount deposited by the petitioner against the aforesaid assessment(s), by way of adjustment in the monthly bills(s) to be issued after the date of this order.

Dated: 11.11.2024

Order signed dated and pronounced today.

Dated: 11.11.2024

  
(D. P. Gairola)  
Ombudsman

  
(D. P. Gairola)  
Ombudsman