

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Smt. Valvinder Kaur
Prabhu Colony, near Nageshwar Mandir,
Amarbharti, Chandrabani,
Dehradun, Uttarakhand

Vs

1. The Executive Engineer,
Electricity Distribution Division (South),
Uttarakhand Power Corporation Ltd.
18, EC Road, Dehradun
Uttarakhand
2. Shri Brij Pal Singh,
S/o Late Shri Ramsharan,
Chaila, Mohebewala,
Dehradun, Uttarakhand.

Representation No. 02/2024

Order

Dated: 05.04.2024

Being aggrieved with Consumer Grievance Redressal Forum, Garhwal Zone, (hereinafter referred to as Forum) order dated 10.11.2023 in complaint no. 91/2023 filed by Shri Brij Pal Singh before the said Forum in which Smt. Valvinder Kaur was also a party, against UPCL through Executive Engineer, Electricity Distribution Division (South), Uttarakhand Power Corporation Ltd., 18, EC Road, Dehradun, Uttarakhand (hereinafter referred to as respondent no. 1) and Shri Brij Pal Singh S/o Late Shri Ramsharan, Chaila, Mohebewala, Dehradun (hereafter referred to as respondent no. 2), Smt. Valvinder Kaur, Prabhu Colony, Near Nageshwar Temple, Amarbharti, Chandrabani, Dehradun (petitioner) has preferred this appeal for restoration of her connection.

2. The petitioner has averred as follows in her instant petition:
 - i. The petition is preferred against Forum order dated 10.11.2023 in complaint no. 91/2023.
 - ii. The factual matrix leading to filing the petition have been detailed as below that:



- a. The petitioner is residing in her house with address Prabhu Colony, Near Nageshwar Temple, opp. Forest Depot, Amarbharti, Chandrabani, Dehradun.
- b. She has purchased and taken possession of the property in the month of August 2021 from Shri Ashish Pundir after making payment towards to the cost of the property to the said person. At the time of taking possession of the house by her a connection no. SD15531558018 in the name of Shri Brij Pal Singh existed in the said premises. After taking possession of the house she had been making payment of Electricity bills of the aforesaid connection.
- c. After making payment towards the purchase of the property to Shri Ashish Pundir, he was requested to provide NOC from Shri Brij Pal Singh for transfer of the connection in her name. Subsequently the NOC was provided by Shri Pundir with a copy of Shri Brij Pal Singh's Aadhar Card. Connection no SD15531558018 in the name of Shri Brij Pal Singh was disconnected and a new connection no. SD15531962791 was given in her name.
- d. In the month of June 2023 Shri Brij Pal Singh came to her house along with his Aides and claimed ownership of her house. Her belongings were even thrown out using muscle power by the aforesaid Shri Brij Pal Singh, however, the illegal action of Shri Brij Pal Singh was stopped with intervention of City Magistrate and her belongings were put back in her house by officials of the office of City Magistrate.
- e. Thereafter Shri Brij Pal Singh filed a complaint at Forum leveling false charges against her and with the request for disconnection of her above mentioned connection and for restoration of his connection.
- f. She was made a party to the aforesaid complaint by the Forum vide its letter no. 238 dated 13.10.2023.
- g. In the hearing before the Forum she submitted all the relevant documents and records to establish her claim over the property.
- h. Subsequently Forum allowed Shri Brij Pal Singh's complaint no. 91/2023 vide its order dated 10.11.2023 to her prejudice wherein the respondents were directed for restoration of Shri Brij Pal Singh's connection and for disconnection of her connection.



- i. The respondents in compliance of Forum's order disconnected her connection but did not restore the connection already existing as a result she was forced to live at her house without any electricity.
 - j. On non restoration of her connection she visited respondent's office and requested for restoration of any of the connections and she will be liable for all financial liability incurred on account of that. A letter was also submitted by her in the office of the respondent. After repeated requests the connection was restored with a delay of more than one week.
- iii. There was total denial of the principles of natural justice by the Forum as no opportunity of hearing was provided to her.
- iv. Being aggrieved against Forum's order referred above the instant appeal is preferred on the following amongst other grounds because:
 - A. The impugned order have been issued in a most illegal obscure erroneous arbitrary unwarranted perverse irregular and unjust manner in clear violation of the settled proposition of law resulting in manifest injustice and causing serious prejudice to the petitioner and hence the same deserves to be quashed and set aside.
 - B. Action of UPCL is in clear violation of principles of natural justice equity and good conscience as no notice or opportunity of being heard was given to her before disconnecting her supply.
 - C. The Forum did not consider and peruse that complainant Shri Brij Pal Singh has stated falsely that he is paying the electricity bills regularly.
- v. That the respondent clandestinely and in collusion with the complainant Shri Brij Pal Singh disconnected her supply in contravention to Forum's order dated 10.11.2023 in complaint no. 91/2023. That the possession of the petitioner over the property was never disputed at Forum by the complainant or the respondent, hence the petitioner is entitled for electricity supply in terms of UERC Supply Code regulation, 2020. More so because of settled law as returned law by Hon'ble Supreme Court in criminal appeal no. 810 of 2022 dated 13.05.2022 wherein it is stated ***"It is now well settled proposition of law that electricity is a basic amenity of which a person cannot be deprived. Electricity cannot be declined to a tenant on the ground of failure/refusal of the landlord to issue no objection certificate. All that the electricity supply authority is required to***

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examine is whether the applicant for electricity connection is in occupation of the premises in question."

- vi. That the Forum has gone beyond jurisdiction and directed the respondent to disconnected her supply.
- vii. That the existing connection of the petitioner is legal and in accordance with procedure as established by law.
- viii. Forum's order dated 10.11.2023 passed in complaint no. 91/2023 has been received by her on 16.12.2023, hence there is no delay in filing the appeal.
- ix. That under the above circumstances the petitioner was left with no alternative but to approach this Hon'ble Ombudsman by way of the present appeal for necessary relief and redressal.

Prayer:

In the premises aforesaid, it is most humbly and respectfully prayed that this Hon'ble Ombudsman may graciously be pleased to-

- a) Call for records of the case from the Forum.
- b) Issue necessary directions to UPCL/respondent not to disconnect electricity supply of the complainant and restore connection in the name of the petitioner.
- c) Pass any other order or direction, which this Hon'ble court may deem fit and proper, on the facts and circumstances and the interest of justice.

The petitioner has substantiated her averments with copies of documentary evidences as referred in her appeal. She has also submitted an affidavit under oath duly notarized.

- 3. After perusal of records and hearing arguments of the parties, the Forum passed order dated 10.11.2023 in complaint no. 91/2023 wherein the Forum has mentioned that the connection no. SD15531558018 of the complainant was disconnected in contravention to provisions under sub regulation 6.2 of UERC regulations and therefore directed for restoration of the aforesaid connection and connection given to his tenant Smt. Valvinder Kaur Urf Rajjo W/o Shri Paramjeet Singh Opp. Van Depot on presentation of fabricated documents and depositing 3 times security be permanently disconnected. The opposite party is however at liberty to initiate legal actions against her for taking connection fraudulently.

d.

4. The respondent Executive Engineer has submitted his written statement along with notarized affidavit vide letter no. 3611 dated 25.01.2024 wherein he has submitted point wise reply as follows:
- i. No reply is required.
 - ii.
 - a. No reply is required.
 - b. Connection to Shri Brijpal Singh S/o Late Shri Ramsaran Singh Village Choila, Mohebewala, Dehradun was given on 14.09.2021 on his application.
 - c. His connection no. SD15531558018 was disconnected on his request.
 - d. No reply is required.
 - e. In compliance to Forum's order the referred connection was disconnected and aforesaid connection no. SD15531558018 was restored .
 - f. f to j No reply is required
 - iii. iii) iv) and vi) to ix) No reply is required.
 - iv. v) In compliance to Forum's order connection no. SD15531692791 was disconnected and connection no. SD15531558018 was restored.
5. The petitioner has submitted a rejoinder dated 11.03.2024 along with notarized affidavit wherein against point no. ii) to xix) she has mentioned that these paras need ~~not any~~ reply as the respondent has not denied her submissions. However she has submitted as follows at point no. i) and xx) :
- i) At the outset contents of written statement submitted by the respondent are specifically and categorically denied being devoid of merits, baseless and no cogent explanation has been furnished.
 - xx) She has submitted that the Hon'ble Ombudsman would be pleased to take on record this rejoinder and allow the petitioner to argue the matter both on averments made in the appeal as well as countered to the written statement of the respondent.
6. Shri Brij Pal Singh (respondent no. 2) has not responded to letters written to him for submission of his written statement and all letters written to him have been returned by the post office undelivered.



7. Hearing in the case was held on predetermined date 28.03.2024. Both parties appeared. Both parties presented their arguments. Arguments were concluded and 05.04.2024 was fixed for pronouncement of order.
8. Arguments from both parties were heard documents available on file were perused. Forum's file was also summoned and gone through carefully. It is borne out that the petitioner has applied for a domestic connection in premises (Prabhu Colony, Near Nageshwar Mandir, Opposite Forest Depot, Amarbharti, Chandrabani, Dehradun) where a connection no. SD15531558018 existed in the name of Shri Brij Pal Singh, which was disconnected by the respondent on 18.04.2023, after receipt of duly filled application for permanent disconnection on consumer's request and billing was stopped. The petitioner applied for new connection depositing 3 times security, which was released on 26.04.2023 with connection no. SD15531962791 with the same meter no. 104623 (previously installed at connection no. SD15531558018). The petitioner alleged that in June 2023, Shri Brij Pal Singh along with his aides came to her house and claimed ownership over the house. Shri Brij Pal Singh then filed a complaint before the Forum for restoration of his connection and disconnection of petitioner's connection, which was registered as complaint no. 91/2023. Forum allowed his complaint and ordered on 10.11.2023 to restore complainant's connection no. SD15531558018 and disconnect petitioner's connection no. SD15531962791. In compliance of the same respondent disconnected petitioner's connection no. SD15531962791 but did not restore complainant's connection. Petitioner filed present representation for restoration of her connection. There is a property dispute between Shri Brij Pal Singh and the petitioner for which this is not competent court, hence no comments is being mentioned in this order about property dispute, the same may be done by the competent court, if approached. The respondent, Executive Engineer in his written statement before the Forum have mentioned that after receipt of duly filled application for permanent disconnection on consumer's request, connection no. SD15531558018 was disconnected and billing was stopped. He also mentioned that the petitioner has got connection no. SD15531558018 disconnected by submitting forged documents, but respondent never questioned or examined the same before disconnecting connection no. SD15531558018 of Shri Brij Pal Singh, neither by examining the signatures nor through telephonic conversation with Shri Brij Pal Singh. The billing of connection no. SD15531558018 had already been stopped by the



respondent. Last bill having been issued on 11.04.2023 for meter readings from 5307 to 5809, with dues Rs. 2,478.00 only, which suggests that it is a permanently disconnected connection. Petitioner applied for new connection by depositing 3 times security as per UERC regulations. Respondent Executive Engineer released connection no. SD15531962791 to the petitioner, which is a legal connection under relevant UERC regulations. Hon'ble Supreme Court case law referred by the petitioner in her petition also supports her case.

9. Such being the case the respondents are directed to restore petitioner's connection no. SD15531962791 and disconnect connection no. SD15531558018 of Shri Brij Pal Singh as the same has already been disconnected permanently and billing has been stopped by the respondent. Petition is allowed. Forum order is set aside.

Dated: 05.04.2024


(Subhash Kumar)
Ombudsman