

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Shri Harshlal
S/o Shri Gaina Lal
Village Fendi, P.O. Kalyani,
Distt. Uttarkashi, Uttarakhand

Vs

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

Representation No. 36/2022

Order

Dated: 31.01.2023

Being aggrieved with Consumer Grievance Redressal Forum, Uttarkashi/Tehri Zone (hereinafter referred to as Forum) order dated 15.10.2022 in his complaint no. 68/2022 before the said Forum, against UPCL through Executive Engineer, Electricity Distribution Division, Uttarkashi, Dehradun (hereinafter referred to as respondent) Shri Harshlal S/o Shri Gaina Lal Village Fendi, P.O. Kalyani, Distt. Uttarkashi, has preferred the instant petition for redressal of his grievance regarding shifting of pole.

2. The petitioner, Shri Harshlal in his instant petition dated 22.11.2022 has averred that a pole has been erected by UPCL in front of his shop and stay for the pole has also been laid in front of shutter of his shop. He has submitted that his shop exists at the location much before the pole was erected. Bare conductor has been laid down on the line, it may cause an electric accident at any time. A complaint was lodged by him with Forum, Uttarkashi/Tehri for shifting the pole, but relying upon the submissions of opposite party and in his absence due to which he could not submit his case before the Forum, the Forum disposed off his complaint. Forum order was received by him with a delay. He has requested that his petition be admitted after condoning the delay and the pole existing in front of his shop be ordered to be shifted.

d.

3. The opposite party submitted before the Forum that the pole under reference existed at the location much before the shop was constructed. Further they have submitted that there is no danger to the complainant from the line. The Forum after hearing both parties at 4 number occasions on 29.08.2022, 06.09.2022, 19.09.2022 and 15.10.2022 and after perusal of records observed that the complainant is affected from erection of the pole without his consent. The Forum was of the view that the department should take necessary action to avoid any possibility of any danger or accident from the line as apprehended by the complainant. In view of their observation they allowed the complaint and directed the opposite party to take such action as to eliminate any possibility of any loss to the complainant due to any possible electrical accident.
4. The respondent, Executive Engineer has submitted his written statement dated 26.12.2022 with an affidavit under oath. The petitioner had lodged a complaint dated 23.08.2022 before the Forum. Written statement was submitted before the Forum by SDO Chiniyalisaur vide letter no. 106 dated 06.09.2022 based on the evidences and hearing parties Forum passed order dated 15.10.2022 wherein department was directed to resolve the complaint in accordance with departmental rules. It was submitted before the Forum that the pole was planted about 14 years ago, while the shop of the petitioner was constructed only about 2 years ago. The pole under reference is erected on public land (road). The location at which the petitioner wants to get the pole shifted is a disputed land. The case is pending in the Court between the petitioner and his neighbour Shri Gyanilal S/o Shri Patti lal Village Pauda Fendi, Dunda, Uttarkashi. The respondent has submitted that the pole under reference is erected on public land and its shifting is not possible.
5. The petitioner has submitted a rejoinder dated 07.01.2023 with an affidavit under oath. He has averred that his shop is 20 years old. A case on land dispute is pending before SDM, Chiniyalisaur. The land with Khasra no. 407 is different and at different location from the location where he wants the pole to be shifted and this is a different matter and the court case has nothing to do with his grievance for shifting of the pole. He has again reiterated that his request may kindly be acceded to and respondents be directed to shift the pole.

d.

6. Hearing in the case was held on pre decided date 23.01.2023. Both parties appeared and argued their respective case. Records available on file have been perused and after hearing both parties and consulting relevant regulations and provisions in Electricity Act, 2003 it is found that sub regulation 3.1 (5) of UERC (Guidelines for Appointment of Members and Procedure to be Followed by the Forum for Redressal of Grievances of the Consumers) Regulations, 2019 provides as follows:

"The Forum shall not entertain any grievances pertaining to shifting of electric lines/poles/equipments." It is therefore clear that the subject matter the complaint before the Forum and that of petition before undersigned is out of jurisdiction of CGRF/Ombudsman mechanism. Further complaint is defined under sub regulation 1.2 (d) of the aforesaid UERC regulation, which does not include the matters related to shifting of electric lines and poles.

In view of above regulatory provisions the subject matter of the complaint before the Forum and petition before the undersigned does not come under the jurisdiction of Forum and Ombudsman and therefore cannot be decided on merits. The Forum has acted beyond its jurisdiction, its order therefore set aside being inconsistent with relevant UERC regulations. The petition is disposed off without passing any orders on merits.

7. However, it is clarified here that the matters related to shifting of line or poles comes under the jurisdiction of District Magistrate concerned in terms of proviso to Works of Licensee Rules 2006 framed by Govt. of India which is reproduced below: -

"Provided further that if at any time, the owner or occupier of any building or land on which any works have been carried out or any support of an overhead line, stay or structure has been fixed shows sufficient cause, the District Magistrate or the Commissioner of Police, or the officer authorized may be order in writing direct for any such a work, support, stay or structure to be removed or altered."

The petitioner if he so desires may approach to District Magistrate of his district for redressal of his grievance.

Dated: 31.01.2023


(Subhash Kumar)
Ombudsman

Page 3 of 3
36/2022