

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Smt. Rookshana
W/o Shri Meherban,
Mehmoodpur, Post Piran Kaliyar,
Roorkee, Distt. Haridwar,
Uttarakhand

Vs

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

Representation No. 32/2024

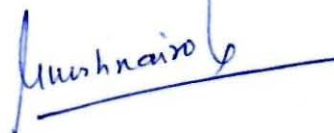
Award

Dated: 26.12.2024

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 29.02.2024 in complaint no. 09/2024 by which Ld. Forum has partially allowed the complaint of appellant Smt. Rookshana W/o Meherban, Mehmoodpur, Post Piran Kaliyar, Roorkee, Distt. Haridwar (petitioner) against UPCL through Executive Engineer, Electricity Distribution Division (Rural), Uttarakhand Power Corporation Ltd., Civil Lines, Roorkee, Distt. Haridwar, Uttarakhand (hereinafter referred to as respondent).

2. The petitioner has submitted this representation/petition dated 01.08.2024, wherein she has averred as below:

The petitioner had filed a complaint before the Forum against the demand raised by the respondent. The Forum decided the complaint, wherein the Forum failed to pass an order to the respondent to re-establish the connection as the respondent were not able to prove theft of electricity at her premises before the Forum. She approached Hon'ble High Court through WPMS no. 1618 of 2024 wherein Hon'ble High Court vide order dated 21.06.2024 directed her to approach Ombudsman Electricity and hence the instant representation.



3. A number of grounds have been mentioned in her petition wherein certain allegations and shortcomings in Forum order have been laid down. According to her Forum's order is against law, facts and merits of the case and is liable to be dismissed. She has prayed that Forum's order under reference be modified and respondent be directed to re-instate the connection and the petition be allowed.
4. The Forum after perusal of records and hearing arguments observed that earlier a case of theft of electricity was registered against the petitioner on 19.05.2022 against which assessment was raised and FIR was also lodged with the Police Station. At the second time theft of electricity was again detected at her premises vide checking report dated 13.12.2023 against which FIR was also raised and assessment was also raised in accordance with section 135 of Electricity Act, 2003 and having observed as above the Forum partially allowed the complaint vide its order dated 29.02.2024 and further directed the opposite party to arrange to delete the assessment on account of theft of electricity against Shri Meherban from the bill of connection no. 686/167471 of the complainant.
5. Being aggrieved with Forum's order the petitioner filed WPMS 1618/2024 before Hon'ble High Court Uttarakhand. The Hon'ble Court disposed the writ petition vide order dated 21.06.2024 with granting liberty to the petitioner to file representation within one week from today before Ombudsman Electricity who shall decide the case within 3 weeks thereafter.
6. The respondent Executive Engineer has submitted a written statement dated 30.08.2024 through advocate along with affidavit under oath. Apart from his submissions that this is a case of theft of electricity and assessment has accordingly been raised as provided under section 126 of the Act. He has submitted the present representation is not maintainable and cannot be adjudicated by the Hon'ble Ombudsman as the representation is barred by law as the representation has been filed after much delay (representation filed on 01.08.2024) beyond the period of 7 days granted by the Hon'ble High Court for filing representation before Ombudsman.
7. The petitioner vide her letter dated 11.09.2024 submitted that she doesn't want to submit any rejoinder and date for arguments be fixed in the interest of justice.
8. Hearing date was therefore fixed on 25.11.2024, which was subsequently adjourned for 04.12.2024, so hearing was held on 04.12.2024. Both parties were present.

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Respondent's counsel submitted application seeking adjournment, which was allowed and 13.12.2024 was fixed for hearing. This date was also adjourned for 19.12.2024. Both parties appeared through their advocates. The respondent Executive also appeared himself for arguments. The respondent's counsel orally submitted that since the petitioner did not comply with Hon'ble High Court's order dated 21.06.2024 according to which she was required to submit representation within 7 days before the Ombudsman and further this being a case of theft of electricity this case cannot be adjudicated by Ombudsman and therefore the petition is liable to be dismissed.

9. Records available on file have been perused. Arguments from both parties were heard. It is borne out that firstly the petitioner has failed to comply with Hon'ble High Court's order as the petition has been filed after a delay beyond the prescribed period of 7 days allowed by Hon'ble High Court and therefore this petition is not maintainable. Secondly based on the documentary evidences it appears a confirm case of theft of electricity, which is a cognizable offence under section 135 of Electricity Act, 2003 and is therefore out of Ombudsman's jurisdiction in terms of sub regulation 2.(1)(f)(ii) of UERC (Appointment and Functioning of Ombudsman) Regulation 2004. As such the Ombudsman cannot decide this petition on merits.

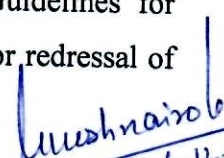
Order

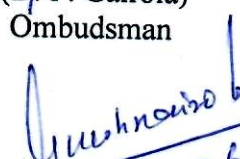
In view of above facts of the case the petition is dismissed on two counts- Firstly petitioner was directed by the Hon'ble High Court to file representation before Ombudsman within one week on 21.06.2024 while he filed representation before Ombudsman on 01.08.2024 without any condonation of delay, secondly, the Forum is not empowered to entertain and decide the cases of theft of Electricity u/s 135 of Electricity Act, 2003, as per Sub Regulation 3.1.1(4) of UERC (Guidelines for appointment of members and procedure to be followed by the Forum for redressal of Grievances of Consumers) Regulations, 2019. No orders for costs.

Dated: 26.12.2024

Order signed dated and pronounced today.

Dated: 26.12.2024


(D. P. Gairola)
Ombudsman


(D. P. Gairola)
Ombudsman