

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Smt. Ranjana Kumar Kalra,
W/o Late Shri Bal Krishan Kalra
J-61, Shivalik Nagar, Ranipur,
Haridwar, Uttarakhand

Vs

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

Representation No. 22/2022

Order

Dated: 10.08.2022

Being aggrieved with Consumer Grievance Redressal Forum, Haridwar Zone (hereinafter referred to as Forum) order dated 19.04.2022 in his complaint no. 24/2022 before the said Forum, against UPCL through Executive Engineer, Electricity Distribution Division, Jwalapur, Haridwar (hereinafter referred to as respondent) Smt. Ranjana Kumari Kalra W/o Late Bal Krishan Kalra, J-61, Shivalik Nagar, Ranipur, Haridwar has preferred this appeal for ordering the respondent to transfer the connection of her Late husband in her name.

2. The petitioner, Smt. Ranjana Kumari Kalra has preferred the instant appeal wherein she has averred that she is a senior citizen of 68-69 years and being widow of Late Shri Bal Krishan Kalra have applied for transfer of domestic connection no. JW4124056758 still existing in the name of her late husband Shri Bal Krishan Kalra, still a holder of the aforesaid connection and which is being used by her since his death and the premises where the connection is installed is duly occupied by her. She is aggrieved with Forum order dated 19.04.2022 in her complaint no. 24/2022 because the Forum has dismissed her complaint on the grounds that a certificate of being wife of late Shri Bal Krishan has not adduced and secondly that in Court order in civil suit no. 200/2021, the Civil Court has issued orders for maintaining status quo regarding the land only and nothing has been mentioned in the said Civil Court order regarding

electricity connection. She has further submitted that she has already submitted Aadhar card, death certificate, water supply bill as an evidence to prove that she is widow of Late Shri Bal Krishan Kalra. Further as regards orders of Civil court, in Suit no. 200/2021 jointly filed by herself and her daughter Smt. Chanchal Gupta as co-plaintiff vs her sons Shri Dinesh Kalra and Gunjan (the deponents) she has stated that it is in itself a clear evidence that there is no bar by virtue of the said Civil Court order in transferring connection in her name as nothing has been mentioned in the Court order about electricity connection and the Court order is exclusively with regard to maintaining status quo of the land. She has also submitted copies of the documents such as registry of the land, death certificate of late Bal Krishan Kalra, a copy of water supply bill and a copy of electricity bill, aadhar card, voter id and Civil Court's stay order, to show that she is the widow of Shri Bal Krishan Kalra and therefore has all the rights to get the connection transferred in her name. Forum order under challenge has also been submitted.

3. The Forum has stated that they have heard the arguments of Smt. Chanchal Gupta D/o complainant on behalf of the complainant and Shri Neeraj Kumar SDO on behalf of the opposite party. The Forum have observed that the complainant has claimed herself to be the owner of the premises in the application submitted by her for change of connection in her name and the stay granted by the Civil Court in Civil Suit no. 200/2021, has directed to maintain status quo of the property with regard not to sale any part of the property being in occupation of the petitioner (Smt. Ranjana Kumari Kalra) and prevented the respondents from evicting the petitioner from the property directly or indirectly by them or through any other person and the Civil Court has not mentioned anything about electricity connection. The Forum has further observed that the complainant has not adduced any documentary evidence to show her as owner of the property, neither she has submitted NOC from other legal heirs. The Forum further referring to sub regulation 4.3.2 (1) of UERC Regulations, 2020, has stated that for mutation of the name of the consumer the complainant is required to submit an application before the department on annexure VII and has to submit registered will, legal heirs certificate and documents regarding property. Since the complainant has not submitted the desired documents her complaint is likely to be dismissed. And have accordingly dismissed the complaint.

4. The respondent, Executive Engineer has submitted his written statement dated 08.06.2022 along with an affidavit on oath as follows:

- i) He has denied that her complaint has not been resolved in Forum order dated 19.04.2022, but the Forum has passed the aforesaid order as per law and thus the appeal is liable to be dismissed.
- ii) The petitioner has claimed herself as owner of the property but no evidence has been adduced, the Forum has rightly observed the facts. For mutation of the name of the consumer, NOC from the connection holder has to be produced and in the case where the connection holder has already expired NOC from the legal heir (s) has to be given. The respondent has further stated that the petitioner has submitted a copy of Civil Court stay order dated 03.12.2021 in Civil Suit no. 200/2021 Smt. Ranjana Kumari and others vs Dinesh Kalra and others wherein the Court has issued stay order for maintaining status quo of the property. In the said Civil Suit the petitioner has duly accepted that she wants to get the electricity connection of Late Shri Bal Krishan Kalra transferred in her name, while the legal heirs of Late Bal Krishan includes herself, Smt. Chanchal Gupta D/o Shri Bal Krishan Kalra and Shri Dinesh Kalra and Shri Gunjan Kalra both sons of Late Bal Krishan Kalra, the respondent has claimed that NOC from the aforesaid legal heirs should have been submitted but no such documents have been submitted by her either in the department or before the Forum.
- iii) The Forum has rightly observed that documentary evidences to prove ownership and NOC from other legal heirs have not been adduced and the observation is in accordance with UERC notification dated 28.11.2020.
- iv) The petitioner's claim that after the death of husband, his wife becomes the owner of all the properties is wrong and far from the facts and is denied. He has further stated that as per Hindu Legal Heir Act the widow of the deceased person as well as his son and daughter have the right on the property. The legal heirs of Late Bal Krishan Kalra are his daughter Smt. Chanchal Gupta and his sons Shri Dinesh Kalra and Gunjan Kalra in addition to his widow Smt. Ranjana Kumari Kalra so for want of the documents referred above and

as per regulation the connection cannot be transferred in the name of the petitioner.

- v) Further he has stated that apart from the reasons stated above there are some other reasons also due to which the petition is liable to be dismissed. **(The respondent has however not mentioned as to which are the other reasons due to which the appeal is liable to be dismissed.)**

5. The petitioner has submitted a rejoinder dated 06.07.2022 along with affidavit on oath. She has reiterated that she is a senior citizen of 69 years of age and connection in the name of her Late husband Bal Krishan Kalra is existing in her residence J-61, Shivalik Nagar, BHEL, Ranipur, Haridwar. The property has yet not been divided. She has stated that the property has been earned by her and her husband from their own income. No will was however made by her late husband due to his sudden death, therefore her sons/daughter shall get the right of ownership on this property after it is divided. She has further stated that her sons are continuously harassing her with the intention to evict her from the house so under the circumstances she had approached the Civil Court to restrict her sons from creating any hindrance in the use of 2 rooms being occupied by her, copy of civil court judgment has already been submitted with petition. In view of the aforesaid problem she is not able to submit NOC from her sons and due to the said problem the department advised her to get the connection transferred in her name, so she had applied for change of connection in her name in the department. Her elder son and his family are regularly using electricity from the said connection but have not made any contribution in payment of electricity bills and she had to pay the bills herself although she doesn't have any source of income. She has stated that in view of her problem the department has given her a prepaid temporary connection. She has requested that the said temporary prepaid connection be converted into a post paid permanent connection. She has requested that in view of her old age the temporary connection be converted to permanent connection as she is unable to complete the formalities of recharging etc. of the prepaid temporary connection.
6. The documents available on file have been perused and arguments from both parties were heard, it is borne out that a domestic connection no. JW4124056758 is existing at J-61 Shivalik Nagar, Ranipur Haridwar in the name of Late Bal Krishan Kalra who

had expired on 11.04.2006 as per death certificate dated 19.04.2006 available on file. The petitioner Smt. Ranjana Kumari Kalra had applied for transfer of the said connection in her name as she is a occupant of the premises and has submitted documentary evidences such as a bill of water supply, a copy of her aadhar card, voter ID card, which all shows her as wife of Late Shri Bal Krishan Kalra. She had also submitted a copy of Civil Court judgment dated 03.12.2021 in Civil Suit no. 200/2021 which is a stay order for maintaining status quo of the property, although there is no mention of the electricity connection in the Civil Court order, however in the said order Smt. Ranjana Kumari Kalra has been mentioned as wife of Late Bal Krishan Kalra. After her request for transfer of connection in her name was turned down by the department, she approached the Forum with a complaint registered there as complaint no. 24/2022, which was dismissed by the Forum vide order dated 19.04.2022 on the grounds that NOC from the other legal heirs of the property has not been submitted and as also other documentary evidences as required under sub regulation 4.3.2 (1) of UERC Regulations, 2020 has also not been adduced by her. The respondent Executive Engineer in his written statement has also denied her claim for the same reasons. A perusal of UERC regulation 2020, it is noted that sub regulation 4.3.2 (1) provides for submission of documents such as registered will, succession certificate, mutation in municipal/land records etc., however it does not say anything about NOC from the other legal heirs but annexure 7 of the said regulations on which application for mutation is to be submitted do provide for submission of NOC from other legal heirs in case connection is to be transferred in the name of one legal heirs.

7. In the instant case the petitioner has submitted documentary evidences as mentioned above to prove that she is the widow of late Bal Krishan Kalra, holder of the aforesaid connection which she wants to be transferred in her name as she is still using the connection, making payments of the bills and **is an occupier of the premises where the connection exists**. Further she has shown her inability to obtain NOC from her sons as they are harassing her and trying to forcibly evacuate the premises. Further she has stated that her husband could not make a will in his lifetime due to his sudden death, however she has submitted a copy of the Civil Court judgment dated 03.12.2021 which is a stay order for maintaining the status quo of the property which also suggests that the property cannot be sold by her sons unless it is

divided and they shall not take any action to force her to evict the premises. This stay order thus, in a way goes in her favour. The Civil Court's aforesaid stay order also suggests her as widow of deceased Bal Krishan Kalra and one of the just legal heirs.

8. It has also been noted from the documents that the department has given a prepaid temporary connection to her in the said premises where a regular domestic connection which she had applied for transfer in her name exists in the premises without any NOC from the other legal heirs. Although it has not been mentioned that for what purpose the said temporary connection has been given but the receipts dated 20.06.2022 for depositing material security Rs. 5000.00 and recharge Rs. 2000.00 suggests that the connection was given for domestic purpose as the charges got deposited from the petitioner are applicable for domestic use of temporary connection as per sub regulation 9 (a) and (b) of UERC regulation 2020. The relevant regulations applicable for temporary connections, suggests that temporary connections cannot be given for permanent use as has been given in the instant case by the respondent. Sub regulation 3.2.1 (3) of UERC regulation 2020 provides that **“The grant of temporary connection does not create a right in favour of the applicant for claiming a permanent connection, which shall be governed by provisions of the act and the regulations.”**
9. It is found that the respondents have committed 2 mistakes in giving the temporary connection to the petitioner firstly this temporary connection has been given for a permanent use for domestic purpose and secondly they have given this connection in the premises where a regular connection still exists in the name of the connection holder Late Shri Bal Krishan Kalra who had expired long back in the year 2006 and his widow has applied for transfer of this connection in her name but which has been denied by the Forum vide their order dated 19.04.2022.
10. While it is true that NOC from other legal heirs is not required as per sub regulation 4.3.2 (1) as there is no such mention in the said sub regulation, although format (Annexure VII) of application shows that NOC be given, but it does not appear to be an essential condition for having not been provided for, with aforesaid relevant sub regulation. More over in this particular case one of the other legal heirs, her daughter, who is a co-plaintiff in above referred Civil suit and have also appeared in hearing on behalf of her mother, the petitioner, here appears supporting her mother. The

intentions of the other two legal heirs, her both sons does not appear to be bonafide, required to be submitted by the petitioner, in addition to other documentary evidences for getting the connection transferred in her name. While she has already submitted documentary evidences as mentioned above which proves that she is the widow of the connection holder Late Bal Krishan Kalra and is one of the legal heir, but has shown her inability to get NOC from her sons, who are as submitted by her, are harassing her and trying to evict her from the house. Will of Late Bal Krishan Kalra is also not available as it was not made by him in his lifetime. In the circumstances of the case, it is also a pertinent question that how long this connection shall continue in the name of Late Bal Krishan Kalra and cannot be transferred in the name of his widow just for want of NOC from other legal heirs, his sons and in the event of nonpayment of dues by the present users if connection is not transferred as applied for in the name of Ranjana Kalra, from whom and how the legitimate outstanding dues shall be recovered.

11. Section 43 (1) of Electricity Act, 2003 also provides that the Licensee is duty bound to give connection to an applicant whether owner or occupier of any premises, this sub regulation suggests that connection to an applicant cannot be denied. In the instant case the respondents have given a temporary connection to the petitioner for permanent use in the same premises but they have denied transfer of the existing connection in her name for want of NOC and the Forum has also dismissed her complaint for the same reason. I think it is not justified. The said connection no. JW4124056758 still existing in the name of her husband Late Bal Krishan Kalra and for which she had applied for getting it transferred in her name. It appears logical and justified if the connection be transferred in her name as the evidences on file are sufficient proof to prove that she is the widow of the connection holder Late Bal Krishan Kalra and no matter if she is not able to give NOC from other legal heirs.
12. The respondent is therefore directed to transfer the aforesaid existing connection in the name of petitioner Smt. Ranjana Kumari Kalra within 15 days from the date of this order after getting all the outstanding dues against the said connection deposited by her, after adjustment of security if any on production of its original receipt and after getting the fresh security deposited from the petitioner. Petition is allowed. Forum order is set aside.

13. As regards the temporary connection, the same has been given in contravention to the regulations and it cannot be converted into a permanent connection as such facility is available to the temporary connections for loads up to 75 KW given for construction purposes in terms of 3.2.4 (1) of UERC regulation 2020 and therefore petitioner's request, as made in her rejoinder for converting her temporary connection into permanent connection cannot be acceded to and the same is hereby denied.

Dated: 10.08.2022

(Subhash Kumar)
Ombudsman