

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Shri Vikram Singh Bhandari
R/o Vilage & Post-Umedpur,
Thakurpur. East Hope Town,
Premnagar, Dehradun,
Uttarakhand

Vs

The Executive Engineer,
Electricity Distribution Division,
Uttarakhand Power Corporation Ltd.
Mohanpur, Premnagar,
Dehradun, Uttarakhand

Representation No. 21/2024

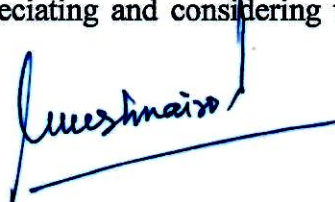
Award

Dated: 27.09.2024

Present appeal/representation has been preferred by the appellant against the order of Consumer Grievance Redressal Forum, Garhwal Zone, (hereinafter referred to as Forum) dated 23.03.2024 passed in complaint no. 165/2023-24 by which Ld. Forum has dismissed the complaint of appellant Shri Vikram Singh Bhandari, R/o Village & Post- Umedpur, Thakurpur, East Hope Town, Premnagar, Dehradun (petitioner) against UPCL through Executive Engineer, Electricity Distribution Division, Uttarakhand Power Corporation Ltd., Mohanpur, Premnagar, Dehradun, Uttarakhand (hereinafter referred to as respondent).

2. In the instant representation dated 09.05.2024 received in this office on 13.05.2024 and admitted on 17.05.2024, after condonation of delay as requested for by the petitioner vide his application dated 09.05.2024, the petitioner Shri Vikram Singh Bhandari as averred as follows:-

- i. That the Forum has been pleased to dismiss his complaint no. 165/2023 in its order dated 23.03.2024 without appreciating and considering the documents placed on records.



- ii. That the actual matrix leading to filing the present grievance petition has been detailed as below:-
- (a) That the appellant has been residing in his parental house located at Umedpur, Premnagar, (Dehradun).
 - (b) That in the said premises he is living in a joint family where a electricity connection no. MP12111102112 is existing in the name of his father late Shri Madhav.
 - (c) That in the year 2018 he constructed a separate house near to his parental house in which premises he applied for a connection under PM Saubhagya Yojna. The respondent informed that about 02 to 03 poles will be required for giving the connection in the new house and that time the poles were not available with the department. He was asked to pay the cost of the poles but he refused.
 - (d) That thereafter in his absence the respondent visited his parental house without permission and consent and bifurcated the wiring of his two floor parental house and connected the upper floor to the existing connection no. MP12111102112 and installed a new meter with service connection no. MP121111320157 under Saubhagya Yojna in his name in the ground floor.
 - (e) That he requested the respondent to provide the connection at his newly constructed house where he applied for that. However, the respondent demanded money for arrangement of poles and for giving the connection. Pursuant to this the respondent came without any prior notice and took away the meter of the old existing connection and whereabouts of the removed meter were never communicated to him thereafter.
 - (f) That respondent never provided any details as to why the meter was removed and what was the reading obtaining in the meter at the time of its removal and disconnection.
 - (g) Thereafter he made several visits to the respondent's office and requested that the connection applied for, be energized in his new house. Instead of providing the connection, the respondent disconnected the old connection of his parental house, supply in the house was being given by the connection of Saubhagya Yojna which was given at the ground floor of the parental house.



- (h) A sum of Rs. 7,908.00 was deposited but supply to the old connection was not resumed.
- (i) That the arbitrary use of power and position, and the blatant violation of regulations by the respondent has led to denial of electricity to his family. Both at his new house and parental home.
- (j) That he had already approached Hon'ble Chief Minister Helpline, DM, Toll Free No. 1912 but his grievance was never redressed.
- (k) Feeling aggrieved he approached the Forum but the Forum dismissed his complaint no. 165/2023 vide its order dated 23.03.2024. Copy of Forum's judgment was never provided to him and the same was finally delivered by post after his persistent effort. There was no mention in Forum's order as to the Court where appeal could be made against Forum's order (**A perusal of the Forum's judgment dated 23.03.2024 shows that his averment is true as the said order does not have any mention about the appellate authority where he can approach in appeal.**)
- iii. That there was total denial of principle of natural justice by the Forum. In as much as, justice should not only be done but shown to have been done, which entails show cause notice, reply, opportunity of hearing and a speaking order dealing with rival submissions.
- iv. Being aggrieved against the aforesaid impugned order the instant appeal is being preferred on following amongst other grounds:-
- A. Because the impugned order has been issued by 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 him and hence the same deserves to be quashed and set aside.
- B. Because action of the UPCL was in clear violation of principles of natural justice, equity and good conscience in as much as no notice or opportunity of being heard was given to him before disconnecting the supply.
- C. Because the Forum did not consider that the respondent had submitted fabricated and forged documents to make a case in their favour.
- D. Because the Forum did not apply judicial mind that the respondent had carried out blatant violation and committed serious irregularity in the prestigious flagship Saubhagya Yojna of Government of India.

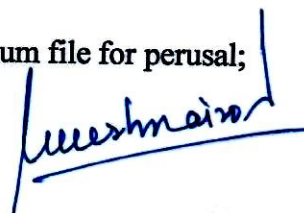


- E. Because the Forum has helped and colluded with the respondent to benefit them as the Forum relied solely on the letter and submissions of the respondent without applying judicial mind and framing question of law, dismissed the complaint out rightly.
- v. That the Forum did not appreciate that the respondent has created the entire story and false documents as an afterthought to justify their illegal actions.
- vi. That the Forum wrongly relied on the submission of respondent that due to objection of the local residents, the electricity line to the new house could not be laid down and the meter was installed at the parental house on his instance. The respondent had never substantiated their averment with any documentary evidence.
- vii. That the Forum had gone beyond jurisdiction and dismissed the complaint that, even the details of the appellate court was not mentioned in the impugned judgment.
- viii. That Forum did not ask any question to the respondent with respect to the utilization of the poles and material allotted under the Saubhagya Yojna for energizing his connection at the new house, when a connection was not issued at the desired location. That the grave misuse of public money has been completely overlooked by the Forum.
- ix. That the Forum did not rely that the connection applied for his new house has not been given even after around 06 years. That this action of respondent causing delay in release of connection attracts penalty and compensation under UERC Regulation, 2007, LT Supply Regulation, 2013 and subsequent amendments.
- x. That under the above circumstances there was no alternative with him but to prefer the instant appeal before Hon'ble Ombudsman. It is respectful submission that the impugned assessment is liable to be quashed and set aside by the Hon'ble Ombudsman.

Prayer

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

- a) Call for records of the case and Ld. Forum file for perusal;



- b) Call for billing history for both the connections.
 - c) Direct the respondent to connect the electricity supply of the paternal house of the appellant.
 - d) Direct the respondent to provide electricity connection at the new house of the appellant under Saubhagya Scheme which has not yet been issued. Direct the respondent to give the compensation in delay in release of connection as per Standard of Performance Regulation, Hon'ble UERC.
 - e) Impose the penalty on the respondent for delay in issuing connection at the new house of the appellant as per Standard of Performance Regulation, Hon'ble UERC.
 - f) Issue necessary directions to the UPCL/ respondent to reconnect the electricity supply of the appellant at his paternal house.
 - g) Pass any other order or direction, which this Hon'ble Appellate Court may deem fit and proper, on the facts and circumstances and in the interest of justice.
3. The petitioner has also submitted an application dated 09.05.2024 for interim relief, wherein he has prayed that respondent be directed to restore the electricity connection at the parental house and not to take any cohesive action. (Since there was no Ombudsman in the office from 17.04.2024 to 19.08.2024, so his application for interim relief could not be considered).
4. After hearing both parties and perusal of records, Forum observed that the complainant was unauthorizedly giving electricity to the permanently disconnected old connection no. MP12111102112 from his connection no. MP121111320157. On account of which his aforesaid connection was disconnected. In view of above the Forum was of the view that the complainant has violated sub regulation 3.1.8 of UERC notification dated 29.10.2020 and was of the opinion that the complaint is liable to be dismissed having no force and the Forum had accordingly dismissed the complaint vide its order dated 23.03.2024.
5. The respondent Executive Engineer has submitted his written statement vide his letter no. 726 dated 10.06.2024 along with an affidavit duly notarized. The respondent has submitted as follows:-

- (1) The department had released new domestic connections in the year 2018-19 under Saubhagya Yojna. That time the petitioner Shri Vikram Singh Bhandari

had also applied for a new connection in his name under Saubhagya Yojna. While the department was proceeding for giving the new connection some local residents created a dispute and therefore line of 02 poles could not be constructed. Hence due to the dispute and on the request of the petitioner connection with no. MP121111320157 was released in his old residence where he was already residing.

(2) A connection no. MP12111102112 was already existing in the old house at village Umedpur in the name of his father Shri Madhav Singh. That house was of 02 storey and petitioner's brother was residing at the ground floor and the said connection was being used by petitioner's brother. A sum of Rs. 32,377.00 was outstanding against the said connection till February 2022 on account of which the said connection was disconnected. Further it was permanently disconnected and PD was finalized vide OM no. 2372 dated 25.06.2022 according to which the final outstanding dues were worked out as Rs. 32,638.00.

(3) Shri Vikram Singh Bhandari had taken connection no. MP121111320157 under Saubhagya Yojna on first floor of his old residence. He was supplying electricity to his brother from the said connection. Where the old connection MP12111102112 had already been disconnected on account of outstanding dues.

Because Shri Vikram Singh Bhandari was giving electricity to his brother where the old connection no. MP12111102112 had already been disconnected. So, his connection was disconnected for violation of sub regulation 3.1.8 of UERC Supply Code Regulation, 2020. A complaint no. 165/2023 was preferred by Shri Vikram Singh Bhandari before the Forum, which was dismissed by the Forum mentioning that "Uttarakhand Electricity Regulatory Commission Notification October 29/2020 UERC (The electricity Supply Code, Release of New Connections and Related Matters Regulation, 2020 Chapter 3 Release of New Connection के विनियम 3.1.8 परिस्थितियों का उल्लंघन किया गया है। जिसे मंच द्वारा स्वीकार नहीं किया जा सकता है। अतः इन परिस्थितियों में परिवादी का परिवाद बलहीन होने के कारण खारिज किये जाने योग्य है।

The respondent has substantiated his submission with documentary evidences such as the consumer billing history of old connection No. 12111102112 existing in the name of petitioner's father Shri Madhav Singh on which as per

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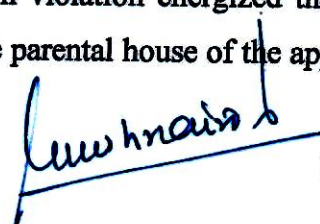
consumer billing history a sum of Rs. 32,377.00 is outstanding as in the month of February 2022. The consumer billing history of new connection no. MP121111320157 in the name of the petitioner Shri Vikram Singh Bhandari mention to have been released on 21.10.2018 against which a sum of Rs. 9,842.00 has been shown as outstanding as in the month of May 2024. A copy of chapter-III release of new connection from UERC Regulation 2020.

6. The petitioner has submitted a rejoinder dated 03.07.2024 on respondent's written statement wherein he has submitted as follows:-

- (1) Contents of WS filed by the respondent are specifically and categorically denied. Being devoid of merits, baseless and no cogent explanation has been furnished with respect to contentions of the appellant. Hence denied except to the extent which are specifically and categorically admitted in the forthcoming paragraphs.
- (2) The respondent has neither denied nor disputed any of his averments. Thus, all his arguments stand admitted by the respondent and the respondent now cannot be allowed to change their stand.
- (3) Contents of para 1 are admitted to the extent that the appellant has applied for a new connection however it is emphatically denied that there is any resistance from local people while the electricity line of 02 pole was laid and that the respondent provided the connection to the parental house of the appellant on his instance.

The respondent has never put on record any such document to establish any kind of resistance whatsoever from any person. It is pertinent to mention that the respondent has been empowered under Electricity Act, 2003 with many powers to overcome any resistance had been there in actual. The Hon'ble Ombudsman in representation no. 36/2019 dated 26.09.2019 in the matter between M/s Hero Realty Pvt. Ltd vs Shri Suresh Kumar Shrivastava at para 13 held that any inspection in giving electricity connection is legal and the respondent UPCL may take help of the district administration. Thus the argument of the respondent there they were not allowed to construct the electricity line is an afterthought and has no leg to stand.

That further the department at their own violation energized the Saubhagya Connection No. MP121111320157 at the parental house of the appellant in his absence.



- (4) Contents of para 2 are admitted to the extent that connection no. MP12111102112 existed in the name of his father. Rest contents of the paragraph are denied in totality. The respondent had admitted that they themselves have bifurcated the electricity connection of the parental house and provided Saubhagya Yojna at the ground floor of the parental house. OM No. 2372 dated 25.06.2022 was an afterthought and was never communicated to him in any manner.

It is emphatically submitted that when the appellant requested to shift the Saubhagya connection to his new house which although could not have been issued at the parental house as it was already rectified the respondent disconnected the old connection and removed the meter.

- (5) Contents of para 3 is admitted to the extent that the appellant was given supply to his brother.
- (6) The appellant has been made to suffer on account of illegal actions of the respondent and was forced to live without electricity whereas the Supreme Court has accorded the electricity equivalent status to right to life. That even the interim relief as prayed for as also not been provided by Hon'ble Ombudsman.
- (7) That the corruption is apparent at face as the electricity line of 02 poles was sanctioned but never constructed. This has led to denial of electricity for the appellant both at the parental house and at his newly constructed house.
- (8) It is therefore most humbly prayed that Hon'ble Ombudsman would be pleased to take on record this rejoinder and allow him to argue the matter both on the averments made in the appeal as alleged countered to the written statement. Further the appellant would crave leave of the Hon'ble Court to allow to furnish any evidence/ document/ judgment to substantiate the pleadings of the appellant for which act of kindness the appellant shall be duty bound.

7. Hearing in the case was fixed on 18.09.2024. Both parties appeared for arguments. The petitioner Shri Vikram Singh Bhandari argued his case himself. Shri Keval Singh SDO, Mohanpur appeared on behalf of the respondent. While the petitioner explained his case with force, the respondent's representative was not able to plead his case on facts however, he repeatedly pressed that petitioner's sister in law (Bhabhi) be summoned for arguments. His argument was not maintainable as it has no connection

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with the present representation, which is regarding non-release of Saubhagya Connection at the premises where it was applied for.

Records available on file as also UERC Sub Regulation 3.1.8 of Supply Code Regulation, 2020 as referred by the Forum as well as the respondent have been gone through. This office judgment in case no. 36/2019 dated 26.09.2019 as referred by the petitioner under para 3 of his rejoinder has also been consulted. Forum's case file was summoned on petitioner's request and has been gone through. Arguments were heard from both parties.

The petitioner's case is that he had applied for a domestic connection in the year 2018 for his newly constructed house nearby to his parental house under PM Saubhagya Yojna but the connection applied for has never been given by the respondent at his newly constructed house where it was applied for. Instead the department released a connection no. MP12111320157 at the first floor of his parental house against his application for connection under Saubhagya Yojna at his newly constructed house. On the grounds that a 02 or 03 pole line had to be constructed for giving the connection at his newly constructed house, which could not be constructed due to some resistance created by some local residents and therefore the respondents at their own opted to give this connection at the first floor of his parental house where an old connection no. MP12111102112 was already existing in the name of petitioner's father.

The department shifted this connection at the ground floor and gave the aforesaid connection at the upper storey of the parental house, they have alleged that this was done on the request of the petitioner however, this plea of the department is without any documentary evidence. As regards, their plea that the connection under Saubhagya Yojna could not be given at his newly constructed house because of resistance created by local residents in construction of 02-03 poles over head line. This submission is also without any documentary evidence. So none of the above two submissions of the respondents for not giving connection in the newly constructed house, where it was desired and giving this connection in the parental house at first floor are sustainable and are therefore turned down for want of documentary evidences.

It is borne out that the respondents shifted the existing connection at the ground floor and gave the new connection at the upper floor at their own volition in contravention with the relevant regulations. In fact it was the duty of the respondents to give the new

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connection which was applied for under Saubhagya Yojna, a flagship scheme of the Government of India, within the prescribed time limit as provided for under Section 43 of Electricity Act, 2003. Further Saubhagya Yojna was a time bound scheme for giving connection to the applicant whosoever applies for that. The time limit for this scheme was upto 31.03.2019 as provided for in the scheme. However, upto the extended period till 2021-22. Respondents has no authority to give a new connection whether in Saubhagya Yojna or otherwise in any place or premises other than where it was desired by the applicant. So in the instant case they have acted beyond their authority in giving this connection in the parental house at first floor where an old connection was already existing which was shifted at ground floor on which dues amounting to Rs. 32,638.00 were outstanding and from that point of view also no new connection could have been given in that premises having outstanding dues against the existing connection. Sub Regulation 3.1(8) quoted by the respondent as well as the Forum does not apply in this case. In fact this Sub regulation is applicable where the property has been legitimately subdivided. As it is not the case here this sub regulation is not attracted in the instant case. The sub regulation is reproduced hereunder:-

"Where a property has been legitimately sub-divided, the outstanding dues for the consumption of electricity on earlier undivided property, if any, shall be divided on pro-rate basis based on area of each sub-divided property.

A new connection to any portion of such sub-divided premises shall be given only after the share of outstanding dues attributed to such legitimately sub-divided premises is duly paid by the Applicant. A licensee shall not refuse connection to an applicant only on the ground that dues on the other portion(s) of such premises have not been paid, nor shall the Licensee demand, record of last paid bills of other portion(s) from such applicant".

8. As regards respondents submission that connection applied for under Saubhagya Yojna could not be given in his new house as the 2-3 pole over head line could not be constructed due to hindrance/ resistance created by a group of local residents does not prove to be a factual submission for want of documentary evidences. In case it was the actual situation arose at site then the respondents should have referred the matter to District Magistrate who is the competent authority to resolve such issues in terms of the powers conferred upon him under words of licensee rules 2006 made by the

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Government of India under Section 176 of the Act, the relevant abstract are reproduced hereunder:-

- (a) Carry out works, lay down or place any electric supply line or other works in, through, or against, any building, or on, over or under any land whereon, wherever or where under any electric supply-line or works has not already been lawfully laid down or placed by such licensee, with the prior consent of the owner or occupier of any building or land;
- (b) 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 or 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.

- 9. It is evident that respondents did not make any efforts to resolve the matter as they did not refer the matter to District Magistrate who is the competent authority to resolve the issue and it is further established that their submission that connection applied for under Saubhagya Yojna could not be released in the newly constructed house where it was applied for due to hindrance/ resistance created by a group of local residents, proves not to be true.
- 10. The respondents on the one hand violated the regulations for not giving connection within the prescribed time limit and in the premises where it was desired , on the other hand they have created a complication by giving connection in the old parental house at upper storey where an old connection having outstanding dues was already existing and the respondents are therefore guilty for committing this irregularity and violation of regulations and not giving connection at the desired place within prescribed time limit.
- 11. In view of above facts of the case due to violation of the provisions in the act as also work of licensee Rule, 2006, the connection under Saubhagya Yojna could not be given till now when as per provisions in the Saubhagya Yojna it could have been released within a period of one month and in any case till 31.03.2019 or in the extreme case upto to the extended period of the scheme till 2021-22. Giving connection in the old parental house does not absolve the respondents from their duty to give connection at the place where it was applied for. It is therefore desirable that

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the respondents should give the pending Saubhagya Yojna connection in the premises of the petitioner where it was applied for by constructing an overhead line as may be required to release the connection. It will therefore be in fitness of things and in the interest of justice that this pending connection is now given within 15 days after realization of the legitimate outstanding dues if any against the connection no. MP121111320157, given in the parental house, in violation of relevant regulations and claimed as a Saubhagya Yojna connection by the respondents, which is not so.

Order

Representation is allowed, Forum order is set aside. The respondents are directed to release connection in favour of the petitioner under PM Saubhagya Yojna at the place where it was applied for and by constructing an overhead line as may be required under present situation of the LT line in the vicinity of the premises of the petitioner within 15 days from the date of this order. It is also clarified that nothing has to be charged from the petitioner on account of construction of line etc for releasing this connection as provided for under PM Saubhagya Yojna Scheme. However, any dues if outstanding against the said connection unauthorizedly given by the respondents earlier, be recovered from the petitioner before releasing the connection in the manner as aforesaid.

Dated: 27.09.2024


(D. P. Gairola) 27.09.2024
Ombudsman

Order signed dated and pronounced today.

Dated: 27.09.2024


(D. P. Gairola) 27.09.2024
Ombudsman