

**THE ELECTRICITY OMBUDSMAN, UTTARAKHAND**

M/s UI Fabricators Pvt Ltd  
C-605, ESIP, Sitarganj  
Distt-Udham Singh Nagar  
Uttarakhand.

Vs

The Executive Engineer,  
Electricity Distribution Division,  
Uttarakhand Power Corporation Ltd.  
Sitarganj, Distt. Udham Singh Nagar,  
Uttarakhand

Representation No. 03/2024

**Order**

Dated: 15.04.2024

Being aggrieved with Consumer Grievance Redressal Forum, Udham Singh Nagar Zone, (hereinafter referred to as Forum) order dated 11.12.2023 in complaint no. 127/2023-24 before the said Forum, against UPCL through Executive Engineer, Electricity Distribution Division, Uttarakhand Power Corporation Ltd., Sitarganj, Distt. Udham Singh Nagar, Uttarakhand (hereinafter referred to as respondent), M/s UI Fabricators Pvt Ltd., C-605, ESIP, Sitarganj, Distt. Udham Singh Nagar (petitioner) has preferred this appeal for quashing Forum's impugned order dated 11.12.2023 and the bills issued post April 2018 and also setting aside surcharge.

2. The instant petition has been preferred by the petitioner M/s UI Fabricators Pvt Ltd. Sitarganj wherein the petitioner has averred as follows:-

The petitioner has made the following request:-

**Brief Facts**

- i. The petitioner has not filed any other prior application or appeal before any authority against the impugned order and this is the first appeal being filed by them.
- ii. This appeal is being filed against Forum's impugned order dated 11.12.2023.





- iii. For proper adjudication of the instant appeal true facts pertaining to the case are detailed hereunder for kind perusal of the Hon'ble Appellate Authority.
- iv. The petitioner is a firm based in Sitarganj, District Udham Singh Nagar.
- v. The petitioner has applied for a connection for 750 KVA from the respondent department for running its business.
- vi. After completion of formalities connection no. 41700692777 was provided to them on 22.06.2017 for 750 KVA load.
- vii. After starting functions in its factory it was realized that for several reasons 750 KVA load was not being utilized. Hence, an application dated 17.04.2018 was submitted to the respondent with the request for reduction of load from 750 KVA to 400 KVA.
- viii. The respondent department neither paid any heed towards the seriousness of the matter nor took any action on his application.
- ix. The respondent department informed him that they are required to pay statutory charge for reduction of load amounting to Rs. 5000.00.
- x. In compliance respondent's directions Rs. 5000.00 were deposited vide cheque no. 391922 dated 27.09.2018 receipt of which was issued by the department on 29.09.2018.
- xi. The department informed the petitioner in the month of March 2019 that additional fee of Rs. 18086.00 was required to be paid towards the cost of estimate. No satisfactory reason for not informing to deposit the said amount at the time of submission of application was given by the department.
- xii. As directed by the department Rs. 18086.00 were deposited on 12.03.2019.
- xiii. It is pertinent to highlight that despite receiving desired fee the department continued charging the fixed charges for 750 KVA till April 2019. While the factory was neither fully functional nor it was utilizing 750KVA load.
- xiv. The petitioner has submitted that they had applied for reduction of load on 17.04.2018 however, no action was taken by the respondent on his application. Aggrieved by inaction of the respondent the petitioner enquired about the status repeatedly. The department informed that a fee of Rs. 5000.00 had to be paid. A bare reading of the same reveals the lackadaisical approach by the respondent towards his genuine grievance.





- xv. Owing to the inaction of the respondent he suffered financial loss on receiving continuously exorbitant bills from the department for 750KVA load. Despite having applied for reduction of load and paying the statutory fee for the same.
- xvi. Since the bills issued by the respondent were disputed, the petitioner did not pay the same and resultantly the connection was disconnected by the respondent in August 2018 After disconnection the petitioner was forced to shut down his factory as it was impossible to operate without electricity connection.
- xvii. After disconnection of the electricity connection by respondent the production in the factory came to a complete halt. Resulting in heavy financial losses. Since the production had stopped the petitioner was unable to clear the dues, which is directly attributable to the inaction of the respondent, in timely reducing the load from 750KVA to 400KVA.
- xviii. The petitioner addressed several applications to the respondent on 04.01.2019, 12.07.2019, 16.07.2019 and 24.09.2019 to reduce the load and to reduce the access surcharge which was arbitrarily imposed on the petitioner but with no avail. In addition to above he even sent emails to the respondent requesting to fix the electricity bills however, no heed paid by the department.
- xix. His representative time and again met the officials of the department and requested them to fix the bills issued by them in line with the reduced load and even proposed to make the payment of the bills in installments. However, his request was denied by officials.
- xx. In the month of March 2020 the entire nation was hit by Covid-19 Pandemic and everything came to a standstill even the petitioner were unable to coordinate with the officials of the department as regards their rightful claims.
- xxi. On 21.02.2021 a letter was written to the respondent mentioning that
- a. The petitioner had suffered heavy losses owing to non-reduction of load from 750 KVA to 400 KVA for almost one year.
  - b. His electricity connection was disconnected as he did not pay the disputed bills.
  - c. After Covid-19 Pandemic the petitioner had started receiving orders from abroad and it was pertinent for it that the electricity connection be restored.
  - d. The petitioner would make a monthly payment of Rs. 1 lakh in addition to the regular bills towards its past liability.





xxii. Aggrieved with the same a complaint was filed before the Forum with the following prayers:-

- a. To quash the bills issued post April 2018 at the fixed charge for 750 KVA
- b. To fix the bills in line with the fixed charge for 400 KVA.
- c. To waive of the surcharge levied on such bills.
- d. The Forum's impugned order dated 11.12.2023 was received by him on 18.12.2023 in which complaint was dismissed.
- e. The impugned order is wholly arbitrary, unreasonable and has been passed without application of judicial mind.
- f. While passing the impugned order the Forum failed to appreciate the facts on record and regulations that governed the reduction of load.
- g. For the reasons best known to it the Forum selectively read the provisions of regulations governing reduction of load whereby completely overseeing the provisions related to imposition of penalty on the respondent for delay in reduction of load.
- h. The respondent relied on fabricated documents and letters that had never been sent to the petitioner and the Forum did not check the veracity of the same and proceeded against the petitioner in a predetermined notion.
- i. The respondent contended that letter dated 21.10.2018 was sent to him however, the petitioner did not respond to it. True facts are that no letter whatsoever was ever received by the appellant. The documents were fabricated by the respondent which is established from the very fact that an office memorandum said to be dated 18.10.2018 which has been signed by a number of persons has no date whatsoever mentioned on it. Furthermore the aforesaid letter dated 21.10.2018 has been issued by Executive Engineer who is much higher in hierarchy as compared to the SDO who signed the OM.
- j. The arbitrariness and the bias of the Forum is evident from the fact that the respondent relied on certain letters sent through post. However, neither was the postal receipts presented nor was a copy of the dispatch register provided to the appellant. A single copy was provided to the Forum and despite repeated request the Forum did not provide copy of the dispatch register to the petitioner for the reasons best known to it.



- k. The impugned order was passed on 11.12.2023. However, the same was received by the petitioner on 18.12.2023. For this reason the instant appeal is where within limitation.
- l. The impugned order is illegal, arbitrary and devoid of any merit on the basis of the grounds enumerated hereunder:-

#### **Grounds of Appeal**

- a. Because the Forum failed to consider the fact that the petitioner suffered owing to the inaction of the respondent.
- b. Because the Forum ought to have considered that there was a delay of one year between the application for reduction of load and actual reduction by the respondent department.
- c. Because the Forum failed to apply its judicial mind while adjudicating the merits of the case.
- d. Because the Forum ought to have considered that the delay in deposit of SC fee is not attributable to the petitioner but the respondent.
- e. Because the Forum failed to consider that the respondent did not sent any communication to him through any medium.
- f. Because the Forum passed the impugned order based on the contentions of the respondent.
- g. Because the Forum failed to apply its judicial mind while appreciating the evidence on record.
- h. Because the Forum selectively applied the regulations to the case as against the petitioner and in favour of the respondent.
- i. Because the impugned order is perverse in the eyes of law.
- j. Because the impugned order is not tenable in the eyes of law.
- k. Because the impugned order is violative of the principles of natural justice.
- l. Because the Forum failed to consider the fact that the petitioner is suffering continuous financial loss owing to the lackadaisical approach by the respondent department.

#### **PRAYER**

On the basis of the facts and ground mentioned hereinabove it is most humbly prayed that the Hon'ble Appellate Authority may kindly be pleased to.





- i) Quash the impugned order dated 11.12.2023 passed by the Forum.
- ii) Quash the bills issued by the respondent post April 2018.
- iii) Set aside the surcharge charged on the bills post April 2018.
- iv) Direct the respondent to re-fix the bills in line with 400 KVA from April 2018.
- v) Direct the respondent to reconnect his electricity connection.
- vi) Award the cost of filing the instant appeal.
- vii) Any other relief which the Hon'ble Authority may be deemed fit and proper in light of the case.
- viii) The petitioner has corroborated his averments with documentary evidences as Annexure 1 to 7 and as also submitted an affidavit and Vakalatnama.

3. After perusal of records available on file and hearing arguments from both parties the Forum observed that as per relevant regulations the respondent should have asked the complainant to clear all the outstanding dues against him but after getting the outstanding dues deposited the opposite party allowed reduction of load. As per consumer ledger available on file it is revealed that a sum of Rs. 5245645.00 were outstanding against the complainant as on 05.03.2019 and a sum of Rs. 3745645.00 were outstanding on 28.03.2019 towards electricity bills. While in spite of so much outstanding dues against the complainant against electricity bills the opposite party (the UPCL) not only executed agreement for reduction of load on 12.03.2019 but his contracted load was reduced from 750 KVA to 400 KVA in the bill for the month of April 2019. The department could not submit any solid clarification for violation of sub-regulation 4(7) and such violation were done under which circumstances.

### **Order**

The complaint is dismissed.

4. The respondent Executive Engineer has submitted a WS along with a notarized affidavit vide his letter no. 2954 dated 03.02.2024 wherein he has submitted point-wise replies as follows:-

- i. (i), (ii) and (iii) No reply submitted
- ii. (iv) The petitioner M/s UI Fabricators is a consumer under his division with connection no. 880K000029190.
- iii. (v) Accepted
- iv. (vi) Accepted





- v. (vii) An application dated 17.04.2018 was received at his office on 25.04.2018 for reduction of load.
- vi. (viii) The point no. 8 of the appeal is not accepted. Referring Clause 10(1) of UERC HT Regulation 2008 which is also reproduced, the respondent has submitted that the petitioner did not deposit registration cum processing fee with the application so just merely submitting the application form does not make the petitioner liable for reduction of load.
- vii. (ix) The petitioner was informed for payment of registration fee Rs. 5000.00 after receiving the application form at his office.
- viii. (x) Point no. 10 is accepted.
- ix. (xi) Point No. 11 is not accepted as the petitioner was well intimated about the estimation cost of Rs. 18086.00 vide letter no. 3161 dated 21.10.2018.
- x. (xii) Point No. 12 is accepted.
- xi. (xiii) In spite of receiving registration fee the petitioner was required to pay the estimated cost Rs. 18086.00 which was paid by him on 12.03.2019 and after that only the respondent reduced the load from 750 KVA to 400 KVA from April 2019.
- xii. (xiv) Point No. 14 is not accepted as at the time of registration only the petitioner was told to submit the registration form with the registration cum processing fee which the petitioner failed to pay at that time.
- xiii. (xv) Point 15 is not accepted as the petitioner submitted the application form for reduction of load on 25.09.2018 and paid registration fee Rs. 5000.00 on 29.09.2018 also the estimated cost Rs. 18086.00 was pending due from the petitioner only after payment of estimation cost on 12.03.2019, the respondent reduced the load well within time. Moreover the bills generated on load 750 KVA basis were not disputed.
- xiv. (xvi) Point no. 16 is not accepted as the respondent disconnected appellant's connection no. 880K0000029190 on 01.10.2020 as mentioned on consumer's billing history.
- xv. (xvii) Point not. 17 is not accepted as at the time of disconnection as the petitioner was a defaulter against the bill of Rs. 5538104.00 also before that the firm of petitioner was in-operation mode as it is evident from the monthly consumption and if we try to calculate the fixed charges on load 400 KVA instead of 750 KVA ( just for example purpose only) after submission of



registration fee by the petitioner till the time the load is reduced then also difference of Rs. 4,50,000.00 (approximately) is against the total bill amount of Rs. 5538104.00.

- xvi. (xviii) Point no. 18 nothing to say.
- xvii. (xix) According to the respondent appellant's electricity bills were correct and there was no scope to fix them on basis of reduced load.
- xviii. (xx) Point no. 20 nothing to say.
- xix. (xxi) Nothing to say as respondent never received the mentioned letters.
- xx. (xxii) pertains to CGRF.
- xxi. (xxiii) Pertains to CGRF (copy of Forum's letter no. 744 dated 11.12.2023 enclosed)
- xxii. (xiv) Point 24 is not accepted as the Hon'ble CGRF Passed the judgment after analyzing all the records and statement from petitioner and respondent.
- xxiii. (xxv) Pertains to CGRF
- xxiv. (xxvi) Points 26 is not accepted as the Forum was well aware of all the rules and regulations of UERC and the penalties related to it and only after analyzing all the facts the forum passed judgment on 11.12.2023.
- xxv. (xxvii) is not accepted
- xxvi. (xxviii) not accepted (copy of letter no. 3067 dated 18.10.2018 of EEEDD, Sitarganj attached)
- xxvii. (xix) is not accepted as copy of the dispatch register was presented by the respondent before the Forum (copy attached)
- xxviii. (xxx) nothing to say.
- xxix. (xxxi) pertains to CGRF.

#### **Others**

It is very much evident from the past history that the petitioner was a regular defaulter of electricity bills raised on his connection and also a cheque bounced defaulter of Rs. 15 lakhs (copy of ledger attached) also it does not seems that petitioner failed to pay the electricity bills just because of the irrelevant reason of delay in reduction of load as the impact of difference in fixed charges is less as compared to the energy charges consumed (if calculated otherwise)

Copies of documents as mentioned in WS from serial no. 1 to 9 have been enclosed to substantiate his averments.

#### **Prayer:**





Hon'ble Ombudsman is humbly requested to reject the appellant's plea after analyzing all the proceedings and order of CGRF and also the records and facts presented before the Forum.

5. The petitioner has submitted a rejoinder dated 26.02.2024 along with an affidavit. Wherein para-wise replies to the WS has been submitted. No new facts about the case other than what he has already averred in his petition has been adduced in this rejoinder. Accept under point no. 11 He has mentioned that paragraph 13 is grossly misreading which is vehemently opposed, under para 15 he has mentioned that paragraph 17 is grossly misconceived as the true facts are that it was owing to the inadvertence of the respondent. The petitioner was unnecessarily burdened with the fixed charges 750 KVA further more the averment that the difference is merely 4,50,000.00. is misconceived as additional surcharge was imposed on the petitioner which is directly attributable to the negligence of the respondent for the reasons best known to it and under para 21 he has mentioned that para 26 is subject to legal determination hence does not call for any reply. Under the other paras he has either denied the contents of WS or has not responded anything. The petitioner also submitted an application for production of some documents as mentioned in his letter. The respondent Executive Engineer was asked for to submit the desired documents vide this office letter no. 986 dated 05.03.2024 up to 07.03.2024. The respondent submitted the desired documents along with dispatch register vide letter dated 07.03.2024 through his AE(R) who appeared on the same date after the arguments were over. The petitioner was asked vide this office letter no. 990 dated 07.03.2024 that if he so desires may visit this office on any working day before 28.03.2024 to peruse the original documents as requested for by him.

**The petitioner's counsel verbally informed on 18.03.2024 when he visited this office that he has since perused the documents under reference.**

6. Hearing in the case was held on scheduled date 07.03.2024. Petitioner was represented by his Authorized counsel while respondents were represented by their advocate Shri Anurag Sharma and Senior Law Officer UPCL. Arguments were concluded. 28.03.2024 was fixed for pronouncement of judgment.
7. Meanwhile the petitioner submitted an application dated 26.03.2024 through his counsel that certain information were asked by them from the respondents under RTI



which needs to be put up before Hon'ble Ombudsman and it was requested that one more opportunity may be given for hearing and submission of some further documents and till then the date of judgment may also kindly be deferred.

8. In consideration of petitioner's request the date of judgment was deferred and 08.04.2024 was fixed for hearing. Both parties appeared for arguments. Apart from oral submissions, the counsel for the petitioner also submitted written arguments dated 08.04.2024, a copy of which was given to the respondents during the hearing. The counsel for the petitioner in the written argument has submitted that it is imperative to highlight that the respondent has proceeded against the petitioner in the instant matter in gross violation of UERC (Release of New HT and EHT Connections, Enhancement and Reduction of Load) Regulation, 2008. Admittedly application for reduction of load was submitted on 17.04.2018. Referring to sub para 9 (1) of the aforesaid regulation he has submitted that reduction of load can be made once in a financial year, further para 9 (2) provides that procedure and conditions as mandated in clause 3 to 8 shall be followed and in the event of delay in effecting reduction of load distribution licensee is liable to pay penalty to the applicant @ Rs. 500.00 per day of delay. Further he has stated that sub regulation 9 (4) provides that subject to completion of formalities as per sub regulation (4) and (5) the Licensee shall complete the works as per timeline specified in the said regulations. However, in case reduction does not require any alteration in the line or the substation load shall be reduced within 30 days. Sub regulation 4 (2) provides that application for reduction of load shall be submitted on Annexure 1 accompanying processing fee. Further, referring sub regulation 4 (6), (7), (8) & (11) of the said regulations, he has submitted that the Licensee is required to check application and intimate deficiencies, but no such deficiency was pointed out, regarding outstanding dues, the Licensee has to issue a demand note within 5 days from the date of application, asking the applicant to deposit the outstanding dues within 15 days. The Forum in its impugned order has highlighted that the provisions of 4 (7) was not complied with by the respondent. 4 (8) provides study of feasibility, but it is not applicable in his case and 4 (11) provides that applicant to deposit the estimated amount within a period of 1 month. Further, regulation (7) inter alia deals with lapse of application, which states that in case application lapses, the processing fees shall be forfeited, which suggests that the application form for reduction of load could not have been accepted without





processing fee. The counsel for petitioner has submitted that the Forum failed to consider the above violations by the respondent and has passed the impugned order without appreciation of the facts on record and regulations applicable in the case. He has adduced a copy of the above referred regulation with his written argument.

9. The counsel for the respondent who appeared for arguments submitted that the written argument submitted by counsel of petitioner should not be taken on record as the arguments had already been concluded and order was reserved for pronouncement on 28.03.2024.
10. After hearing counter arguments from both parties, perusal of records as well as UERC regulations, 2008 which is applicable in the instant case, it is borne out that the petitioner had applied for reduction of his contracted load from 750 KVA to 400 KVA vide his application dated 17.04.2018 on the prescribed format, but without depositing processing cum registration fees Rs. 5,000.00 with the application as mandated in the regulation. The registration fee was however deposited on 27.09.2018, receipt for which was issued on 29.09.2018. As per provisions of the regulation the applicant is required to deposit the processing fee with application at his own and the Licensee is not required to ask him to deposit the processing fee, so this application was not complete and the Licensee should have rejected the application but they did not do so and registered the application by considering its date of submission as 29.09.2018. Subsequently, the respondent asked the petitioner to deposit estimated amount Rs. 18,026.00 vide their letter no. 3161 dated 21.10.2018 and the applicant deposited the estimated amount Rs. 18,086.00 on 12.03.2019 i.e., after a delay of about four and half month, where after agreement for reduction of load was executed in the month of March 2019 and reduction of load from 750 KVA to 400 KVA was affected w.e.f. month of April 2019. Admittedly dues were outstanding against the petitioner at the time of submission of application for reduction of load and the reduction of load as per relevant regulations could have not been allowed, unless outstanding dues were not cleared by the petitioner. The respondent has submitted that petitioner's connection was disconnected on 01.10.2020 for outstanding dues of Rs. 55,38,104.00 at the time of disconnection. The connection is still lying disconnected as per billing history, last bill was issued on 26.10.2020 for the month of 09/2020. But there is no evidence to show that connection has been permanently disconnected. As such the





respondent has made a gross violation for sanctioning reduction of load in spite of outstanding dues against the petitioner.


10. Order for reduction of load from 750 KVA to 400 KVA were issued vide OM no. 3067 dated 18.10.2018, adduced with written statement under the conditions stipulated therein. Strangely condition no. 1 inter alia is "Electricity supply Consumer's Regulations 1984 (यथासंशोधन) की धारा 10(b) में वर्णित शर्तों व प्रतिबंधों का अनुपालन सुनिश्चित किया जाय।" **(It is pointed out that Regulation 1984 was applicable in UPSEB and it is irrelevant in UPCL at this juncture as in the case UERC Regulation 2008 is attracted and the respondent Executive Engineer has made a gross mistake in imposing this condition under 1984 regulation of UPSEB)** This OM was issued after depositing processing charges vide receipt no 19.09.2018, however, before intimating the petitioner to deposit estimated cost Rs. 18,086.00 vide letter no. 3161 dated 21.10.2018, which was paid by the petitioner on 12.03.2019 i.e. after a gap of about four and half month where after the reduction of load was effected from the month of April 2019. It is observed that while the petitioner did not submit complete application on the prescribed form on 17.04.2018 and it was completed by depositing processing charges on 29.09.2018 as also delay in depositing estimated cost, the respondent has made gross violation of relevant regulations by allowing reduction of load despite of outstanding dues against the petitioner. The petitioner's request that reduction of load should have been allowed w.e.f. the date of submission of application i.e. 17.04.2018 instead of allowing it from the month of April 2019, cannot be acceded to as he completed the formalities i.e. depositing processing charges, delay in depositing estimated amount and as the reduction of load could have been allowed after completion of formalities which were completed in the month of March 2019 and therefore reduction of load effected from April 2019 is maintainable in spite of lapses and irregularities committed by the respondents.
11. The Forum order dismissing the complaint is upheld and the petition is dismissed.
12. The UPCL management may like to investigate as to how the reduction of load has been allowed in spite of outstanding dues against the petitioner. The Officer/official responsible for this violation of the regulations may be identified and action against such person/persons may be taken as per departmental rules within a period of 3





months from the date of this order. I shall appreciate if action taken in the matter against the erring officer/officials is intimated to me for my perusal.

Dated: 15.04.2024

  
(Subhash Kumar)  
Ombudsman