

**THE ELECTRICITY OMBUDSMAN, UTTARAKHAND**

Shri Rahimuddin,  
S/o Shri Samsuddin  
Ponta Road, Herbetpur,  
Distt. Dehradun, Uttarakhand

Vs

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

Representation No. 33/2022

**Order**

Dated: 28.11.2022

Being aggrieved with Consumer Grievance Redressal Forum, Garhwal Zone (hereinafter referred to as Forum) order dated 16.09.2022 in his complaint no. 79/2022 before the said Forum, against UPCL through Executive Engineer, Electricity Distribution Division, Vikasnagar, Dehradun (hereinafter referred to as respondent) Shri Rahimudin S/o Shri Samsuddin, Ponta Road, Herbetpur, Dehradun has preferred this appeal with the request that relief demanded in the petition may be granted.

2. The petitioner has averred that he has a duly sanctioned 10 KW connection no. 40109870211 for commercial use. Bills up to the month of July 2022 were duly paid. In the bill for the month of July a penalty was imposed and including the penalty the gross amount of the bill was Rs. 56,914.00 which includes current amount of Rs. 3,068.00. The penalty has been imposed by the department for using the aforesaid connection for industrial use. Complaint against the penalty was lodged before the Forum wherein it was registered as complaint no. 79/2022. The Forum dismissed the complaint vide their order 16.09.2022, as according to Forum the subject matter of the complaint was beyond their jurisdiction in terms of sub regulation 3.1 (4) of UERC, Regulations, 2019.

**Shortcomings in Forum's order leading into the instant appeal.**



Page 1 of 4  
33/2022

The Forum order dated 16.09.2022 is liable to be set aside being against law and has no opportunity of being heard was provided. Forum's view that the case was beyond their jurisdiction in accordance with aforesaid regulation is not correct as the Forum has the jurisdiction to hear and decide such a case. His case comes under the definition of complaint as defined in chapter 1 sub regulation 1.2 (d) of the said regulation, so the Forum has erred in defining the relevant regulation. The notice given by the department under section 126 is against law. The correct procedure for receiving notice has been given under section 126 (5), which has not been followed and as such penalty has been imposed arbitrarily. There is no mention of section 126 (6) in the notice.

3. The petitioner has requested that his appeal be admitted, opportunity of being heard be given and relief sought for may be granted.
4. The Forum after perusal of records and hearing arguments from both parties arrived at the conclusion that being a case of unauthorized use of electricity as defined under section 126 of Electricity Act, 2003 is beyond their jurisdiction in terms of sub regulation 3.1 (4) of UERC Regulations, 2019 and therefore the Forum has dismissed the complaint.
5. The respondent Executive Engineer has submitted his point wise reply to the petition vide his letter no. 4264 dated 28.10.2022 wherein he has submitted as follows:
  - i) A commercial category connection for 10 KW load viz connection no. VN0K000045086 is duly sanctioned in the name of petitioner Shri Rahimuddin.
  - ii) Checking at the premises of the petitioner was done by SDO Herbetpur on 23.02.2022 in which the petitioner's commercial category connection was found being used for industrial purpose. Checking report no. 24/09 dated 23.02.2022 has been adduced which shows that 5.595 KW industrial load (1 no. 7.5 HP pressing machine) was being used at the premises.
  - iii) Based on the said checking report assessment amounting to Rs. 42,425.00 was raised through an entry in the bill for the month of July 2022 in accordance with section 126 of Electricity Act, 2003. The total outstanding dues ending 09/2022 has reached to Rs. 56,496.00.





- iv) The petitioner lodged a complaint before the Forum with no. 79/2022 against the assessment. The Forum after hearing parties dismissed the complaint vide order dated 16.09.2022 being out of its jurisdiction in terms of sub regulation 3.1 (4) of the relevant regulation.
- v) No payment of the assessed amount as well as regular bills have been made by the petitioner from the month of July 2022.


In view of the submissions the respondent has requested that no stay be granted in the case and orders be issued for payment of the all outstanding dues, including the amount of assessment.

- 6. The petitioner has submitted a rejoinder dated 21.11.2022 with duly notarized affidavit. No new facts about the case has been submitted in the rejoinder and it is merely a repetition or reiteration of its averments made in the petition.
- 7. Hearing in the case was held on pre decided date 24.11.2022. Both parties appeared and argued their respective case. Both parties admitted that outstanding dues amounting to Rs. 56,500.00 including assessment amount has duly been paid and the supply which was disconnected, has since been restored after payment of total outstanding dues. Receipt for Rs. 56,500.00 has also been adduced.
- 8. Records and documents available on file were perused and arguments from both parties were heard. It is proved to be an established case of unauthorized use of electricity under section 126 of Electricity Act, 2003, checking has been conducted by the SDO who is duly authorized for conducting checking in such cases and assessment has been raised by the Executive Engineer in his capacity as Assessing Officer under the Act. The Forum has rightly concluded that the case being of unauthorized use of electricity as per section 126 of Electricity Act, 2003 is out of their jurisdiction as per sub regulation 3.1 (4) of UERC regulations, 2019 and has rightly dismissed the complaint. The cases of unauthorized use of electricity does not form a complaint as per sub regulation 2 (1) (f) (i) of UERC (Appointment and functioning of Ombudsman) regulations, 2004, Such being a case of unauthorized use of electricity under section 126 of Electricity Act, 2003, does not come under the jurisdiction of CGRF Ombudsman mechanism and therefore no

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order in the instant case can be passed by Ombudsman on merits. The petition is therefore disposed off without passing any orders on merits. Forum order is upheld.

Dated: 28.11.2022

  
Subhash Kumar)  
Ombudsman