

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Shri Chandra Mohan Chopra
39, Lajpatnagar, Nakedar Road,
Jalandhar, Punjab

Vs

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

Representation No. 28/2024

Award

Dated: 25.10.2024

Present appeal/ representation has been preferred by the appellant against the order of Consumer Grievance Redressal Forum, Garhwal Zone, (hereinafter referred to as Forum) order dated 14.06.2024 in complaint no. 179/2023 by which Ld. Forum has dismissed the complaint of appellant Shri Chandra Mohan Chopra, 39, Lajpatnagar, Nakedar Road, Jalandhar, Punjab (petitioner) against UPCL through Executive Engineer, Electricity Distribution Division, Uttarakhand Power Corporation Ltd., Raipur, Dehradun, Uttarakhand (hereinafter referred to as respondent).

2. The petitioner, Shri Chandra Mohan Chopra in his appeal dated 07.07.2024 and in subsequent letter dated 21.07.2024 has averred that UPCL has given a connection no. 9711213600233 to one Shri Atar Singh in his premises on depositing 3 times security and without his NOC, the connection has been taken by Shri Atar Singh with the intension to grab the property on the basis of electricity connection taken by him. He is aggrieved with Forum's order through which his complaint before the Forum was dismissed and he has requested that the connection which was unauthorizedly given be ordered to be permanently disconnected. He has submitted a notarized affidavit as also other documents in support of his submission to show that he is the legal owner of the property.
3. After perusal of the records available on file and hearing arguments from the parties, the Forum observed that the connection was given to Shri Atar Singh S/o Shri Notu

[Signature]

by the opposite party in accordance with UERC (Release of New Connection, Enhancement and Reduction of Load) Regulations, 2013 under sub regulation 4 (a) of the said regulation. At present UERC regulation under notification dated 29.10.2020 is applicable in terms of UERC (The Electricity Supply Code, Release of New Connection and related matters) Regulations, 2020 under its chapter 6 Disconnection and reconnection 6.(1)(2) the connection can be disconnected under aforesaid regulatory provisions only and the Forum was of the opinion that such being the case, the complaint is liable to be dismissed and they have accordingly dismissed his complaint vide order dated 14.06.2024 in complaint no. 179/2023

4. The respondent, Executive Engineer has submitted his written statement vide letter 5454 dated 22.08.2024 along with a notarized affidavit. He has submitted that Shri Atar Singh has applied for a connection vide his application dated 28.11.2016. On non production of the proof of ownership of the premises as required under sub regulation 4 (a) of UERC (Release of New Connection, Enhancement and Reduction of Loads) Regulations, 2013 deposited 3 times security, the then JE inspected the premises and found that the premises was in occupation of the petitioner of Shri Atar Singh S/o Shri Notu, hence the connection was released on 03.12.2016. The respondent has adduced the following documents to substantiate his submission:
- i) SDO letter no. 266 dated 01.03.2024 addressed to Forum.
 - ii) A copy of the application of Shri Atar Singh for 1 KW domestic connection.
 - iii) A copy of his photo ID card.
 - iv) A copy of affidavit given by Shri Atar Singh to the respondent.
 - v) Copy of consumers billing history.
 - vi) A copy of relevant abstract of UERC regulation, 2013.
5. The petitioner has submitted a rejoinder dated 06.09.2024 along with a notarized affidavit. No new facts of the case has been submitted in the rejoinder and it is merely reiteration of his averments made in the petition.
6. Hearing in the case was fixed for 16.10.2024. While petitioner did not appear, Shri Kapil Dev, SDO appeared on behalf of the respondent and argued his case. The petitioner requested telephonically that another date for hearing be fixed on which he

[Handwritten signature]

will be able to appear for arguments. Therefore 23.10.2024 was fixed as the next date of hearing. Both parties appeared for hearing on the aforesaid scheduled date and argued their respective case. The arguments were concluded and 25.10.2024 was fixed for pronouncement of order.

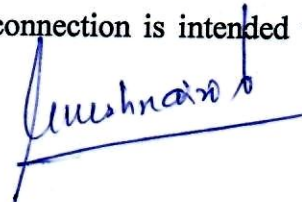
7. All records and evidences available on file as well as case laws of Hon'ble Supreme Court and Hon'ble High Court of Kerala have been perused. It is a case where the petitioner has applied for a connection in the property occupied by him. In order to arrive at a judicial decision in the case it is necessary and would be in the interest of justice to look into the following statutory and regulatory provisions as well as the case laws, which are attracted in the case.

- i) The occupier
- ii) The premises
- iii) Section 43 of Electricity Act, 2003
- iv) Sub regulation 3.3.2 (4) (a) of UERC Regulations, 2020.
- v) A case law of Hon'ble Supreme Court in Appeal no. 810 of 2022 arising out of SLP no. 8917 of 2019 and decided by the Hon'ble Supreme Court vide its order dated 13.05.2022.
- vi) The case law of Hon'ble High Court of Kerala in WPC no. 34061 of 2014 decided by the Hon'ble High Court vide its order dated 15.03.2021.

8. The above statutory provisions and case laws as they effect the instant case are discussed hereunder one by one.

- i) **Occupier:** The term occupier is defined under sub regulation 1.2 (1) (kk) of UERC (Electricity Supply Code, Release of New Connections and Related Matters) Regulations, 2020 as "*occupier*" means the owner or person in occupation of the premises where energy is used or proposed to be used.

From the above definition it is clear that anybody who is in occupation of any premises is eligible to have an electricity connection. He necessarily needs not to be an authorized or legal occupier, what is required is only that he should be occupier of the premises where connection is intended to be taken. Further



UPCL as a supplier is not responsible to find out legality of such occupation, they are only to verify whether the applicant is an occupier of the premises.

- ii) **Premises:** The premises is defined under sub regulation 1.2 (1) (nn) of aforesaid UERC regulation as *"Premises" for the purpose of these Regulations means land, building or infrastructure or part or combination thereof in respect of which a separate meter or metering arrangements have been made by the Licensee for supply of electricity; In case of Agriculture connection, premises means the place of source of water in respect of which connection has been given or intended to be given by the Licensee for supply of electricity.*

The word premises is also defined under section 2 (51) of the Electricity Act, 2003 as **"Premises" includes any land, building or structure.**

From above definitions of premises for the purpose of taking electricity connection by any person, the premises is simply a place or building or a structure or a portion of a building in which an applicant desires to take connection; resides or that portion is in possession of such an applicant irrespective whether a connection in the premises is already existing, however no dues should be outstanding against such a connection and any applicant can take a connection in a portion of such a building or premises which is duly occupied by such an applicant.

- iii) **Section 43 of Electricity Act, 2003:** This section of the Act provides as follows: *"(1) [Save as otherwise provided in the Act, every distribution] licensee, shall on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply:" Further it is also provided in the aforesaid section as Grant of Electricity Supply "The electricity connection can be granted to an owner or occupier of the premises. The word occupier has been defined to mean the owner or person in occupation of the premises."*

The above statutory provision under the Act clearly provides that the Licensee (UPCL here) is duty bound to give electricity connection, whosoever applies for the same being an occupier of the premises where connection is intended

[Signature]

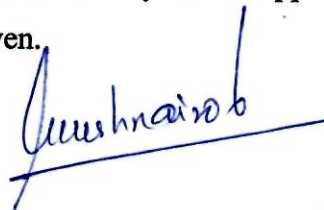
to be taken, it nowhere provides as to what should be the status of an occupier i.e. whether he/she is an authorized or legal occupier or unauthorized whatsoever its none of the business to see the status of an applicant as an occupier, what they have to see is that one must be the occupier of the place or premises where connection has been applied for and thus connection cannot be refused to an applicant who is an occupier of a premises.

- iv) **Sub regulation 3.3.2 (4) (a) of UERC Regulations, 2020:** Proof of ownership or occupancy. Although this sub regulation provides for submission of any one document out of the documents mentioned from sr no. (i) a) to d) and also NOC from the owner of the premises where the applicant is not the owner under point e) but the proviso to the above sub regulation which is reproduced below is relevant to be seen.

“Provided that in case the Applicant is unable to submit any of the document listed at a) to e) above, then the Applicant shall be charged thrice the amount of security as per Table 3.4 to Table 3.6 of Clause (11) of Sub-regulation 3.3.3. The owner of the premises, if different from the Applicant, shall not be liable for payment of any dues against such connection.

Provided further that where the applicant is unable to submit the documents mentioned at a) to e) above and objection has been raised on the premises by District Magistrate/Government Authorities/Government under whose jurisdiction premises falls, the Licensee shall not grant new connection to such Applicant”

A perusal of the aforesaid proviso suggests that even if an occupier of a premises not being the owner of the premises is unable to submit any of the documents as mentioned in the aforesaid regulation even then the connection to the applicant has to be given on charging thrice the amount of security as per table and sub regulation mentioned in the proviso. And in that case the owner of the premises, who has not given NOC shall not be liable for payment of any dues against such connection, that means the entire responsibility for payment of dues against such a connection given without NOC and on depositing thrice times security shall lie wholly on the applicant to whom the connection has been or has to be given.



The second proviso of the said regulation provides that in a case where documents and NOC as required has not been submitted by the applicant and objections has been raised by District Magistrate/Government authorities/Government, the Licensee shall not grant a new connection to such an applicant.

This suggests that connection to an applicant who has not submitted any document can be denied, if objections are raised by the government authorities as mentioned in the proviso. It therefore suggests that objections cannot be raised by any third party not being a government authority and therefore connection has to be given to an applicant despite non submission of documents including NOC and raising objections by any non government third party. In the instant case no objection has been raised by DM/any Govt. authority.

- v) **A case law of Hon'ble Supreme Court in Appeal no. 810 of 2022 arising out of SLP no. 8917 of 2019 and decided by the Hon'ble Supreme Court vide its order dated 13.05.2022:** The Hon'ble Supreme Court in their judgment in the above case has made comments as *"The Landlord cannot prevent the tenant from availing such facility at his own cost. ... It is now well settled proposition of law that electricity is a basic amenity of which a person cannot be deprived. Electricity cannot be declined to a tenant on the ground of failure/refusal the landlord to issue no objection certificate. All that electricity supply authority is required to examined is whether the applicant for electricity connection is in occupation of the premises in question."*

With such mentions the Hon'ble Supreme Court ordered that the impugned order cannot be sustained and the same is set aside and have allowed the appeal.

- vi) **The case law of Hon'ble High Court of Kerala in WPC no. 34061 of 2014 decided by the Hon'ble High Court vide its order dated 15.03.2021:** *"Electricity is a basic amenity in life. Water and electricity are integral part of right to life within the meaning of Article 21 of the Constitution of India. Section 43 of the Electricity Act provides that there is a statutory duty of the*

Unhwaio

distribution licensee to provide electric connection to the applicants within one month after receipt of the application requiring such supply. The 1st respondent Board is the sole distribution licensee for electricity within the State and therefore the Board and its officials shall make every endeavor to provide electricity supply to applicants without any delay. On a query made by this Court, the Standing Counsel for the Board on instruction submitted that, the 3rd respondent has been given electricity supply during pendency of this writ petition."

Thus the Hon'ble High Court has decided the case in favour of the applicant by directing the Licensee to release connection to the applicant without any delay and as is evident from a mention in the order, connection had already been given during pendency of the writ petition i.e. the Hon'ble High Court's order stands duly complied with.

9. In view of aforesaid provisions, of relevant regulations, Electricity Act, 2003 as well as above quoted case laws of Hon'ble Supreme Court and Hon'ble Kerala High Court the connection has been given by the respondent in accordance with above provisions and is therefore a valid legal connection and it cannot be disconnected permanently on the request of the petitioner as the connection has been given on depositing 3 times security as well as verification of his occupation of the premises where the connection was applied for.

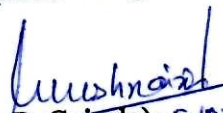
Order

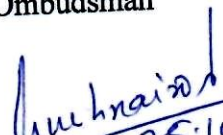
Appeal/representation filed by appellant is dismissed. Forum order is upheld being consistent with relevant regulations and statutory provisions.

Dated: 25.10.2024

Order signed dated and pronounced today.

Dated: 25.10.2024


(D. P. Gairola) 25.10.2024
Ombudsman


(D. P. Gairola) 25.10.2024
Ombudsman