

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Shri Prince Goyal,
S/o Shri Suresh Kumar Goyal
Gali No. 19, Shivaji Nagar,
Rishikesh, Distt. Dehradun, Uttarakhand

Vs

1. The Executive Engineer, Electricity Distribution Division, Uttarakhand Power Corporation Ltd. Shail Vihar, Rishikesh, Distt. Dehradun, Uttarakhand
2. Shri Rajendra Tiwari S/o Late Shri Sahab Saran, Gali no. 19, Shivaji Nagar, Rishikesh, Distt. Dehradun, Uttarakhand.

Representation No. 12/2023

Order

Dated: 17.05.2023

Being aggrieved with Consumer Grievance Redressal Forum, Garhwal Zone (hereinafter referred to as Forum) order dated 28.12.2022 in his complaint no. 127/2022 filed by Shri Rajendra Tiwari S/o Shri Late Shri Sahab Saran, Gali No. 19, Shivaji Nagar, Rishikesh, Distt. Dehradun before the said Forum, against UPCL through Executive Engineer, Electricity Distribution Division, Shail Vihar, Rishikesh, Distt. Dehradun (hereinafter referred to as respondent no. 1) and Shri Rajendra Tiwari (hereinafter referred to as respondent no. 2), Shri Prince Goyal S/o Late Shri Suresh Kumar Goyal, Gali No. 19, Shivaji Nagar, Rishikesh Distt. Dehradun has preferred the instant petition for setting aside Forum's order dated 28.12.2022 and remand back to the Forum.

2. The petitioner, Shri Prince Goyal has averred in the instant petition as follows:

- i) That his father Late Shri Suresh Kumar Goyal had rented out a portion at ground floor (shop) of his property in Gali no. 19, Shivaji Nagar, Rishikesh, Distt. Dehradun and a residential portion at the upper floor of the said property to respondent no. 2 Shri Rajendra Tiwari in the year 2015 (year of

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tenancy) where connection no. RK22221085797 was existing in the name of his father w.e.f. 01.04.2013 (as per consumer history) which was being used by respondent no. 2 since 2015.

- ii) Shri Rajendra Tiwari being a tenant and user of the aforesaid connection was responsible for payments of the electricity bills but he did not make the payments. After the death of Shri Suresh Kumar Goyal the aforesaid Shri Rajendra Tiwari without the notice or knowledge of the legal heirs of Shri Suresh Kumar Goyal got the said connection disconnected on 04.06.2020 in connivance with the department, and on the basis of a wrong affidavit he managed to get a connection no. RK22221646230 installed in his name at the same premises without any knowledge to the legal heirs of Late Suresh Kumar Goyal. When they got to know about the release of said connection they objected against this before the Forum and on their objection the aforesaid connection of Shri Rajendra Tiwari was disconnected by the department on 21.09.2020 and released a new connection no. RK22221188066 (meter no. 20024954) on 22.09.2020 in the name of the petitioner Shri Prince Goyal S/o Late Shri Suresh Kumar Goyal. (The correct connection no. is RK22221188086 as per bills and consumer's billing history).
- iii) Meanwhile a case of vacation of tenant ship was filed by the petitioner against Shri Rajendra Tiwari in the court of Additional District Judge, Rishikesh on 17.08.2022 where it is registered as case no. 48//2022, which is pending before the said court. Shri Rajendra Tiwari had appeared before the Court in the said case on 29.10.2022.
- iv) Payments of the bills against Prince Goyal's connection no. RK22221188066 is duly being made by him. (Correct connection no. is RK22221188086).
- v) Recently he came to know that Shri Rajendra Tiwari has got his already disconnected no. RK222216426230 re-energized. Further through RTI it came to notice that complaint no. 06/2022 was filed by Shri Rajendra Tiwari before the Forum. The Forum without any notice and without making him a party to the complaint ordered for re-energization of the already disconnected aforesaid connection of Shri Rajendra Tiwari on 28.12.2022. Shri Rajendra

Tiwari managed to get Forum's aforesaid order by concealing facts of the case and thus got his disconnected connection re-energized.

- vi) Connection no. RK22221188086 of the petitioner is existing and alive w.e.f. 20.09.2020. (Correct date is 22.09.2020 as per billing history). The said connection is being used by Shri Rajendra Tiwari but bills are being paid by him (petitioner) because the old connection in the name of Late Shri Suresh Goyal was got disconnected by Shri Rajendra Tiwari and the department is not re-energizing the said connection so he has to take a new connection.
- vii) Shri Rajendra Tiwari got Forum's order dated 28.12.2022 issued by concealing the facts.
- viii) In complaint no. 06/2022 before the Forum there was mention of Prince Goyal/Suresh Goyal but even then the Forum relied upon the fabricated and confusing submissions of Shri Rajendra Tiwari and the Forum neither gave any notice to the petitioner nor any opportunity of hearing was provided to him, which was against the principles of natural justice.

With this premises above the petitioner has requested that order dated 28.12.2022 passed in complaint no. 06/2022 by the Forum be set aside and the case be remanded back to the Forum. (A perusal of Forum's order dated 28.12.2022 suggests that this order pertains to complaint no. 127/2022 of Shri Rajendra Tiwari and not complaint no. 06/2022)

3. After perusal of the records and hearing arguments from both parties the Forum found that the disconnection by department of the connection given to the complainant Shri Rajendra in the premises Gali no. 19, Bapu Gram, Shivaji Nagar, Rishikesh on depositing 3 times security on the objections of the legal heirs sons of Late Suresh Kumar was a violation of sub regulation 3.3.2 (4) (a) of UERC (Electricity Supply Code, Release of New Connections and Related Matters) Regulations, 2020, so the action of the department was neither logical nor it was as per law. Having observed as such the Forum ordered that action in respect of the connection released in accordance with sub regulation 3.3.2 (4) (a) of UERC regulations, 2020 be taken as per provisions under chapter 6 disconnection and reconnection of the aforesaid UERC regulation, otherwise connection of the complainant be re-energized as per rules.

4. Since Forum order dated 28.12.2022 in his complaint no. 127/2022 was not complied with by the respondent UPCL, the complainant filed a Misc. Complaint no. 06/2022 before the Forum as the opposite party submitted before the Forum that connection no. RK22221646230 of the complainant Shri Rajendra Tiwari has duly been re-energized in the premises Gali No. 19, Babu Gram, Shivaji Nagar, Rishikesh in compliance to Forum order dated 28.12.2022 passed in original complaint no. 127/2022, the Forum disposed off the Misc. Complaint no. 06/2022 vide its order dated 28.02.2023. (the respondent Executive Engineer, in his written statement dated 31.03.2023 has also confirmed that the said connection was re-energized on 22.02.2023.
5. The respondent no. 1, Executive Engineer submitted his written statement vide letter no. 1170 dated 31.03.2023 in which he has submitted as follows:
- i) As admitted by the petitioner Shri Prince Goyal, respondent no. 2 Shri Rajendra Tiwari is the occupant as a tenant of the said property, since 2015.
 - ii) Shri Rajendra Tiwari got a connection no. RK22221646230 on the aforesaid property by depositing 3 times security and by submission of documents showing him an occupant in the said property.
 - iii) The aforesaid connection of Shri Rajendra Tiwari was disconnected on 21.09.2020 on filing an objection by Shri Prince Goyal and connection no. RK22221188066 was released in the name of Shri Prince Goyal on 22.09.2022.
 - iv) Complaint no. 127/2022 was filed by Shri Rajendra Tiwari before the Forum which was decided by the Forum vide order dated 28.12.2022 and a Misc. complaint no. 06/2022 was also filed by him before the Forum which was disposed off by the Forum vide order dated 28.02.2023 as Forum order dated 28.12.2022 have already been complied with by re-energization of the disconnected connection of Shri Rajendra Tiwari on 22.02.2023.
 - v) No order of the Hon'ble District Judge in the case filed by Shri Prince Goyal in the Hon'ble Court has been passed by the Hon'ble Court till now as reported by Shri Prince Goyal in his instant petition dated 17.03.2023 before Hon'ble Ombudsman.

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Shri Rajendra Tiwari, respondent no. 2 has submitted his written statement dated 11.04.2023 along with affidavit under oath. He has submitted as follows:

- i) Name and address of answering respondent is correct and he is residing in the referred property with his family since 2012 and the premises is in his occupation.
- ii) He has occupied the residential property from Late Suresh Goyal in the year 2012. The existing electricity connection in the premises no. RK22221085797 has been used by him and payments of the bills have also been made by him. He got the aforesaid connection disconnected on 04.06.2020 and got a connection no. RK22221646230 in his name legally. His aforesaid connection was disconnected due to nonpayment of dues. The pending dues amounting to Rs. 13,285.00 were deposited but his connection was not reconnected.
- iii) The petitioner has filed a court case for vacation of the property which is pending in the Court and proceedings are going on.
- iv) He has no knowledge about connection no. RK2222118806 of Shri Prince Goyal, neither he has used the aforesaid connection.
- v) On reconnection of his above referred connection despite repeated requests to the department a complaint was preferred before the Forum on 17.12.2022, which was decided by the Forum vide order dated 28.12.2022 in his favour, but in spite of Forum's order his connection was not restored then a Misc. complaint was preferred before the Forum on 10.02.2023, where after his connection was restored on 24.02.2023.
- vi) No false or fabricated, facts were ever submitted by him either with the department or before the Hon'ble Forum. UPCL officials viz Executive Engineer and the Assistant Engineer (revenue) himself visited his premises and after the inspection his connection was restored on 24.02.2023.
- vii) He has neither misguided the department nor any facts were concealed before the Forum. The property under reference is in his possession.

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viii) Shri Prince Goyal, the petitioner has filed the petition before Hon'ble Ombudsman with malafide intentions which is liable to be quashed.

He has adduced 7 nos. documents as per list enclosed with the written statement to substantiate his submission.

7. The petitioner vide his letter dated 13.04.2023 has submitted that there is no necessity of submission of the rejoinder on written statement of UPCL. Any reply if required shall be given at the time of hearing and the case will be proceeded further. He has further submitted that even if respondent no. 2 does not appear then ex parte proceedings may be carried out.

8. However the petitioner submitted a rejoinder dated 21.04.2023 along with an affidavit on the written statement of respondent no. 2.

i) Respondent no. 2 has submitted written statement dated 11.04.2023 on wrong facts and false affidavit.

ii) The affidavit given with the written statement is based on false statements and all the documentary evidences are fabricated. Document dated 28.04.2012 is also fabricated.

iii) The fabricated documents have been submitted to get a electricity connection in the property belonging to his father Shri Suresh Goyal where a electricity connection was already existing.

iv) All the contentions of written statement dated 11.04.2023 from para no. i) to viii) are wrong and false and are denied.

v) Para no. 1 & 2 of the affidavit is wrong. It is a wrong statement that Shri Rajendra Tiwari was an occupant of his father's property at 19, Shivaji Nagar, Rishikesh. Fact is this that before 2015 he was living at some other place. His ration card and gas connection also bears his address, where he was residing before 2015.

vi) The fact is this that ground floor of the referred property was rented out by his father to respondent no. 2 in the year 2015. A lease deed was also issued.

After that one room on the upper storey was given on rent temporarily.

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Connection no. RK22221085797 was already existing in the room at upper storey. The tenant had been using the said connection since 2015 but did not pay electricity bills. The bills for the above connection were regularly paid by his father in his lifetime till his death in the year 2019.

- vii) After the death of his father bills for the above connection were continued to be paid by the petitioner and the electricity continued to be used by respondent no. 2 but he got the said connection disconnected on 04.06.2020 without any notice or information or permission from the petitioner and managed to take a new electricity connection no. RK22221646230 in the month of July 2020 in his name on the basis of fabricated documents showing him owner of the property. When the case came to his notice, he made objections before the department and told them the facts of the case. The department disconnected the connection of Shri Rajendra Tiwari and a new connection no. RK22221188086 with meter no. 20024854 was released in the name of the petitioner (owner of the property) on 22.09.2020.
- viii) Bills against the above connections are being paid by the petitioner till date. The aforesaid connection was released in the property 19, Shivaji Nagar, Rishikesh and payments of his bills after 22.09.2020 are being made by Shri Rajendra Tiwari as a tenant, who has been using the said connection.
- ix) Under para 2 of the affidavit, it has wrongly been mentioned that connection no. RK22221646230 was disconnected for nonpayment of dues. While the fact is that after the death of his father Shri Suresh Kumar Goyal in the year 2019 the respondent no. 2 with the intention to grab the property fabricated documents were got prepared. This fact came to notice in connection with court case no. 48/2022.
- x) Contents of para 4 and 5 of the affidavit are entirely wrong and false and are denied. Connection no. RK22221646230 remained in existence approximately from 1 month and it was disconnected on filing objections by the appellant on 05.09.2020. He has argued that how it could be possible the dues against the said connection till 10.10.2022 would have been Rs. 13,285.00 while the connection was disconnected only after 3 months of its use. Connection no. RK22221188086 was released in the name of the

petitioner on 22.09.2020 which was continuously used by respondent no. 2 from 22.09.2020 to 02/2023 while his connection no. RK22221646230 remained disconnected during the said period of about 30 months. It is evident that if respondent no. 2 had not been using the connection of the petitioner during this period, then where from he used electricity during these 30 months, his statement is therefore false that he had no knowledge of the connection of the petitioner.

- xi) Respondent no. 2 in his complaint dated 07.12.2022 filed before the Forum, the petitioner was not made a party and managed to get Forum order 28.12.2022 issued by concealing the facts and based on wrong submissions.
 - xii) Contents of para 6 and 7 of the affidavit are totally wrong and false and are denied, it is clear that from 20.09.2020 to 24.02.2023 respondent no. 2 had no connection in the said property which was disconnected on petitioner's complaint where after his own connection is existing and is alive from 22.09.2020 on the property under reference which had been used by respondent no. 2. Facts under para 4 are contradictory.
9. Hearing in the case was held on 03.05.2023 when all the three parties viz the petitioner with his counsel, SDO on behalf of respondent no. 1 and Shri Rajendra Tiwari, respondent no. 2 appeared and argued their respective case. The arguments were concluded and 17.05.2023 was fixed for pronouncement of order.
10. All the documents available on file have been perused and arguments from all the parties were heard. It is borne out that:
- i) Late Shri Suresh Kumar Goyal father of the petitioner, Shri Prince Goyal had a property in gali no. 19, Shivaji Nagar, Rishikesh. A shop at the ground floor and a residential room at the upper floor of the property was rented out by him to respondent no. 2 Shri Rajendra Tiwari in the year 2015 where a connection no. RK22221085797 was already existing in the name of owner in the said property and it was being used by respondent no. 2 since 2015 who was a occupier of the said portion of the property in his capacity as a tenant. The said connection was being used by respondent no. 2 but payment of the bills were being made by Late Shri Suresh Kumar Goyal till his death in the

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year 2019 and thereafter payments of the bills was being made by the petitioner. The said connection was got disconnected by respondent no. 2 on 04.06.2020 without the knowledge or permission of the legal heirs (the petitioner) of Late Shri Suresh Kumar Goyal.

- ii) Shri Rajendra Tiwari, respondent no. 2 managed to get an electricity connection no. RK22221646230 in 07/2020 (date of release of connection as per billing history is 11.06.2020) allegedly on the basis of fabricated documents and after depositing 3 times security. When the fact came to the notice of the petitioner, he raised objections before the department and the department disconnected the said connection of respondent no. 2 on 21.09.2020.
- iii) Shri Rajendra Tiwari approached the department for reconnection but in spite of his repeated requests the said connection was not reconnected by the department. He therefore filed a complaint with Forum where it was registered as complaint no. 127/2022. The Forum after perusal of records and hearing parties ordered on 28.12.2022 for necessary action in accordance with sub regulation 3.3.2 (4) (a) of UERC regulations, 2020 or otherwise re-energize the connection. Respondent no. 2 Shri Rajendra Tiwari filed a Misc. complaint no. 06/2022 before the Forum when Forum order dated 28.12.2022 was not complied with by UPCL officials. The department submitted before the Forum that its order dated 28.12.2022 has already been complied with by re-energization of Shri Rajendra Tiwari's connection on 22.02.2023 and the said complaint was therefore disposed off by the Forum vide order dated 28.02.2023 as its order dated 28.12.2022 has already been complied with and respondent no. 2's connection no. RK222216226230 has already been re-energized.
- iv) The petitioner Shri Prince Goyal had applied for a 1 KW domestic connection in the property gali no. 19, Shivaji Nagar, Rishikesh and a connection no. RK22221188086 was released on 22.09.2022 (As per billing history connection of Shri Prince Goyal was released on 22.09.2020). Connections of the petitioner Shri Prince Goyal and that of respondent no. 2 Shri Rajendra

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Tiwari are still existing and are alive in their respective portions of the property at gali no. 19, Shivaji Nagar, Rishikesh.

- v) The petitioner in his instant appeal dated 17.03.2023 has requested that the appeal be admitted and Forum order dated 28.12.2022 passed in complaint no. 06/2022 be set aside and the case be remanded to the Forum for hearing. It is clarified that the petitioner has wrongly mentioned Forum order 28.12.2022 passed in complaint no. 06/2022, a perusal of Forum order dated 28.12.2022 shows that this order was passed in original complaint no. 127/2022 of Shri Rajendra Tiwari wherein the respondent no. 1 (UPCL) were directed to take necessary action as per provisions for disconnection and reconnection under chapter 6 of UERC regulations, 2020 or re-energize the disconnected connection no. RK222216226230 of Shri Rajendra Tiwari while complaint 06/2022 was a Misc. complaint filed by respondent no. 2 for enforcing compliance of Forum's order dated 28.12.2022, which was disposed off vide Forum's order dated 28.02.2023 as its order dated 28.12.2022 had already been complied with by re-energization of respondent no. 2s connection on 22.02.2023.
- vi) In view of above facts of the case the petitioner's request for remanding back the case to the Forum is not acceptable as Forum has already decided the case vide their order dated 28.12.2022 in complaint no. 127/2022 and connections of the petitioner Shri Prince Goyal and that of respondent no. 2 Shri Rajendra Tiwari are existing in their respective premises and are alive and both the connections have been given by respondent no. 1 UPCL in accordance with relevant UERC regulations and thus ~~there~~ are the lawful connections. No further action in the matter or direction from Ombudsman is required. Forum order dated 28.12.2022 in complaint no. 127/2022 and order dated 28.02.2023 in Misc. complaint no. 06/2022 are upheld. Petition is disposed off.

11. The UPCL has erred and violated relevant regulations in disconnecting the existing connection of Late Shri Suresh Kumar Goyal in pursuance by respondent no. 2 and that of Shri Rajendra Tiwari on the objections raised by the petitioner Shri Prince Goyal for disconnection of the connection of Rajendra Tiwari, as disconnection of a

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lawfully given connection can be done by UPCL in accordance with sub regulation 6.1 and 6.2 of UERC regulations, 2020 and a lawfully given connection to a consumer cannot be disconnected by UPCL on persuasion or request or objection by any third party.

12. As regards case no. 48/2022 filed by Shri Prince Goyal before Additional District Judge Rishikesh for eviction of the tenantship of Shri Rajendra Tiwari and which is still pending before the said Hon'ble Court, it is clarified that this matter does not concern the UPCL unless a judgment is passed by the Hon'ble Court and Ombudsman also has no jurisdiction to interfere in the matter of a dispute on a property. Hon'ble Court's order in the case should be complied with as and when received.
13. It is also clarified that electricity connection held by an occupier of a premises, not being its owner does not form a basis to claim right of ownership on the premises/property.

Dated: 17.05.2023


(Subhash Kumar)
Ombudsman

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