

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Shri Chandra Prakash Mandal
S/o Shri Sagar Mandal,
275, Vivek Vihar Awas Vikas Colony,
Haridwar, Uttarakhand

Vs

The Executive Engineer,
Electricity Distribution Division (Urban),
Uttarakhand Power Corporation Ltd.
Haridwar, Uttarakhand

Representation No. 29/2019

Order

Dated: 14.08.2019

The petitioner, Shri Chandra Prakash Mandal S/o Shri Sagar Mandal, 275, Vivek Vihar Awas Vikas Colony, Haridwar aggrieved by the order dated 15.04.2019 of the Consumer Grievance Redressal Forum, Haridwar zone (hereinafter referred to as Forum) in his complaint no. 26/2019 has filed this representation, with the prayer that case file of Forum be summoned, Forum order dated 15.04.2019 be quashed and his appeal be allowed with costs and any other order as deemed proper be passed in the interest of justice.

2. The petitioner has filed his representation (appeal) on 30.05.2019 which has been registered as appeal no. 29/2019 and admitted on the same day. The respondent Executive Engineer, Electricity Distribution Division (Urban), Uttarakhand Power Corporation Ltd., Haridwar (hereinafter referred to as respondent) has submitted his written statement vide his letter dated 20.06.2019 and a rejoinder was submitted by the petitioner on 22.07.2019. Hearing in the case was held on 05.08.2019, when both parties appeared and submitted their oral arguments.
3. The Forum after going through the case and hearing both parties has concluded that this being a case of theft of electricity, a cognizable offence under section 135 of the Electricity Act, 2003 and assessment amounting to Rs. 68,338.00 under section 126

of the Electricity Act, 2003 has been raised and, have disposed off the complaint without passing any order on merits being a case beyond their jurisdiction.

4. Such being the case it would not be appropriate for the Ombudsman to adjudicate the appeal on merits and it is also needless to deliberate the contents of the petition as well as written submissions by the respondent and to examine the documents available on file such as checking report of the respondent in pursuant of which case of theft of electricity under section 135 of the Electricity Act, 2003 has been alleged against the petitioner, assessment raised by them under section 126 of the Electricity Act, 2003 and the FIR lodged by them with the police.
5. As the case is beyond Forum's jurisdiction in terms of sub regulation 3.1 (4) of UERC (Guidelines for Appointment of Members and Procedure to be followed by the Forum for Redressal of Grievances of the Consumers) Regulations, 2019 which reads as follows:

“(4) The Forum shall not entertain grievances falling under sections 126, 127, 135 to 140 and 161 of the Act and matter relating to recovery of arrears where bill amount is not disputed.”

6. The Forum has rightly disposed off the complaint without passing any orders on merit.
7. As regards admission of the petition by Ombudsman and conducting proceedings, it is appropriate to refer to the following sub regulations of UERC (Appointment and Functioning of Ombudsman) Regulations, 2004:

“4.(1) (a) To receive the representations against any order of the Forum or non-redressal of Grievance by the Forum and consider such representation and pass appropriate awards in accordance with the Act and Rules or Regulations made there under.

5. (1) Any complainant who is aggrieved by the order of the Forum or non-redressal of his Grievance with the specified time by the Forum, may himself or through his authorized representative make a representation to the Ombudsman within thirty days from the date of the receipt of the decision of the Forum or within thirty days

from the date of the expiry of the period within which the Forum was required to take decision, whoever is earlier. ...”

8. In view of above provisions of the Regulation it was mandatory on the Ombudsman to receive the petition, admit it and conduct proceedings but as it was not being a complaint in terms of sub regulation 2(1)(f) (ii) of the above regulation referred in para 7 above “*Offences and penalties as provided under section 135 to 139 of the Act.*”, As such the petitioner does not qualify to be a complainant so, it is beyond Ombudsman’s jurisdiction to pass any order on merits or to give any comments/opinion about the case. It is for the special Court constituted under section 153 of the Electricity Act, 2003 to adjudicate the case. The petition is therefore disposed off without any orders on merits. Forum order is upheld.

Dated: 14.08.2019

(Subhash Kumar)
Ombudsman