

Before the Hon'ble Ombudsma

U.E.R.C., 24 Vasant Vihar, Phase-II,
Dehradun-248006
Phone -(0135) 2762120

Case: Representation No. 10/2005 dated 13.09.2005

Complainant

The Urban and Environmental
Planner, Academy for Mountain
Environics,
267-New Vasant Vihar,
Dehra Dun-248006

Counsel for the Complainant:
The Complainant himself,
Representing the Academy
for Mountain Environics.

Respondents

- Vs. 1. Chairman Consumers' Grievances
Redressal Forum, Garhwal Zone,
120 Haridwar Road,
Dehra Dun.
2. Uttaranchal Power Corporation
Ltd., through its C.M.D.
3. Dy. General Manager,
Urban Distribution Circle,
Uttaranchal Power Corp. Ltd.
Kaulagarh Power House,
Dehra Dun.

Counsel for the Respondents:
Sri S.M.Jain, Advocate
Standing Counsel, UPCL
Dehra Dun.

In the matter of:

A Representation against the non-redressal of the Complaint by the learned Consumers' Grievances Redressal Forum, Garhwal Zone had been filed by the Urban and Environmental Planner, Academy of Mountain Environics, Dehra Dun seeking relief in the grievance against the U.P.C.L. in the matter of news paper reports of power failures causing disruption of water supply.

QUORUM

Sri J.C.Pant	...	Ombudsman.
Date of Award	..	14.12.2005

AWARD

The above Representation was received in the office on 13.9.2005. Copy or the same was sent to the Respondents on 21 9 2005 for presence of the parties and preliminary hearing and obtaining a point wise reply on 5.10.2005.

On 5 10.2005 the Complainant, represented by Sri Nishant Alag, Urban & Environmental Planner and Sri R.K. Mukherjee of the Academy of Mountain Environics and the Licensee represented by Ms. Shashi Yogeshwar, learned Counsel and Sri H.M. Singh, Deputy General Manager, Urban Distribution Circle, U.P.C.L., were present. The Licensee submitted preliminary objections a copy of which was given to the Complainant. The next date 19.10.2005 was fixed for the preliminary hearing and the Licensee's report/point wise reply. Notices were issued accordingly on 6.10.2005.

On 19.10.2005 learned Counsel for the Licensee insisted that the preliminary objections may first be decided. The Complainant filed his rejoinder to the preliminary objections. The next date was fixed on 16.11 2005 for arguments. Notices were issued accordingly on 20.10.2005.

On 16.11.2005 learned Counsel for the Licensee sought adjournment. The next date 7.12.2005 was fixed for further arguments of the Complainant. Notices were issued accordingly.

On 7.12.2005 the learned Counsel for the Licensee and the Complainant were heard. A report was also called for from the Jal Sansthan. The next date 14.12.2005 was fixed for hearing and final order.

Facts and Circumstances of the case.

1. The Urban and Environmental Planner, Academy for Mountain Environics, 267-New Vasant Vihar, Dehra Dun had made a Complaint against the U.P.C.L. of un-announced power supply failures in Dehra Dun city, disrupting water supplies to its various parts including its suburbs. The Complaint was on the basis of citing news papers headings of the Dehra Dun editions of two leading Hindi National Dailies. Significantly the Complainant did not make a complaint against the UPCL of either his own power connection against interruptions of power supply or that of his water supply being unsatisfactory. The Complaint was initially made to the learned Consumers' Grievances Redressal Forum, Garhwal Zone, Dehra Dun on 6.7.2005. The Complainant then reminded it about the redress from the Forum vide his letter of 31.8.2005 which was acknowledged by the Licensee.
2. Thereafter when no reply or redress was forthcoming from the Forum and upon the expiry of 60 days, the Complainant sought redress from the Ombudsman vide his above Representation of 12.9.2005.
3. When the Complainant sought redress from the Ombudsman the Licensee questioned the Complainant's locus-standi as a "consumer" to make a "complaint" as per the definitions of the "Complainant" under the UERC'S Regulations Nos 1 & 4 respective y of 2004, though by itself the Academy was a "consumer" as per the 1. E .A-It 2003 Section 2(15).
4. The Complainant reiterated his right to lodge a "complaint" before the Ombudsman citing his affiliation to a trust espousing public interest causes. which it said empowered it to take

up the Licensee's failure to give reliable power supply, under Section 42(1) "to develop and maintain an efficient coordinated and economical distribution system in his area of supply and to supply electricity in accordance with the provisions contained in this Act."

Examination of the facts, circumstances and issues involved.

1. The matter of settling the locus-standi of the Complainant in the matter was no doubt important from the point of law. It was found that the Trust under which the Academy conducted its public interest causes was not a "consumer association" as per the UERC's Regulations 1 & 4 of 2004, respectively so it was now more a matter of allowing them the right of stretching the point to espouse a cause in hearing out the Representation that had wide public interest connotation, which no doubt the power supply interruptions affecting drinking water supply in the hot summer months did hold. But having said that it was clear that the Academy had taken upon itself to espouse a cause which was found to be not mandated to it.
2. No doubt under Section 42(1) the consumer is entitled to question any inefficiency and diseconomy in the Licensee's distribution system but the cause of the grievance has to pertain to them only. In that case under section 42(5) the Complainant is also entitled to a redress of their grievance by the established Forum and under Section 42(6) the aggrieved consumer has the right to seek a representation before the Ombudsman, if their complaint is not redressed by the Forum. It is thus only to that extent that a grievance of non-redressal can be said to exist if no hearing was given and no decision was conveyed. Though the Forum had the right to question the locus-standi and even reject the complaint it was expected that this should have been conveyed to the Complainant in time.
3. The Licensee had not denied the news reports of erratic power supply either through public notifications or press-releases. So it is a reasonable conclusion to consider that these facts were admitted by them and thus these interruptions did constitute a violation of Rule 59 (1), (2) & (3) of the i. E. Rules 1956.
4. Regarding the matter of dedicated lines these have importance in case of a dire shortage of power or emergencies that entail upon the State Load Dispatch Centre to carry out operations under Section (32)1), (2)(e) or by the State Commission under Section 23 which entail regulating supplies or consumption during such periods. But the Complainant could not muster due diligence in either establishing their locus-standi to represent the common interest of a group of consumers in the matter, or of proving that the Jal Sansthan had a grievance against the Licensee of not fulfilling their demand for dedicated lines.
5. The Jal Sansthan who were said to be affected by the power failures did not respond to the Complaint.
6. The purported aim of the Academy of Mountain Environics to represent consumers' interest in such matters was thus not established although it was given an opportunity to do so in a matter supposed to be of public importance. The representation was thus found devoid of merit.
7. The case is accordingly rejected.

AWARD

Having diligently considered and examined all the facts and circumstances of the Complainant's Representation against the non-redressal of their Complaint by the learned Consumers' Grievances Redressal Forum, Garhwal Zone, Dehra Dun and after giving due hearing to both the parties and having thus considered their arguments, i come to the conclusion that the Jal Sansthan, having not given any report have dissociated themselves from becoming a concerned party who could if at all have been considered a "complainant" and a "consumer" holding a "grievance" against the Licensee The Complainants have thus failed to establish themselves as having a mandate to represent the genuine consumers' interests. The learned Counsel for the Licensee had argued that the voluntary agency the Urban and Environmental Planner, Academy of Mountain Environics cannot be a Complainant in the case and as such the Representation on the Complaint does not lie before the Forum or the Ombudsman. I agree with this assertion of the learned Counsel for the Licensee and the Representation is accordingly rejected.

Dated 14.12.2005-

(J.C.PANT)

OMBUDSMAN.