

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

M/s Tehri Hydro Development Corporation
Bhagirathipuram, Tehri Garhwal, Uttarakhand.

Vs

The Chairman/Managing Director,
UPCL, Urja Bhawan, Kanwali Road, Dehradun, Uttarakhand.

Representation No. 09/2009

Order

A representation has been filed on 08.06.2009 on behalf of Tehri Hydro Development Corporation (THDC) against the order of the Consumer Grievance Redressal Forum, Garhwal Zone (Forum) dated 04.03.2008. Since the representation had been filed with considerable delay, the same was listed for hearing on admissibility on 01.07.2009. The representation had been filed without proper authority of THDC Board also. Accordingly it was directed that proper authority from the competent authority for filing this representation may be filed. On the next date, that is 23.11.2009, a standing order pertaining to legal actions was filed. It was pointed out that the grievance being agitated now pertains to 1998 and is more than 12 years old and both the parties are government owned companies. Therefore specific approval of the Board of Directors of the petitioner company for taking this action may be obtained and filed. Repeated adjournments were requested for and were allowed but these directions were not complied with. Finally on 05.02.2010 the papers were ordered to be filed with the condition that as and when the petitioner files the required authority, they could be taken up for consideration as per law.

2. On 02.04.2010 an extract of the decision taken by the THDC Board of Directors was filed, which is not a specific approval for taking legal action on this twelve year old issue. Even as per this authorization, CGM, Tehri has been authorized to sign and file all papers pertaining to this particular matter. Accordingly the original application was listed for hearing on admissibility on 04.05.2010, 08.06.2010 but the hearing had to be adjourned once on request of the petitioner and once on the respondent's request. The matter was finally heard on 07.07.2010.
3. As stated earlier the grievance that is being agitated is more than 12 years old and pertains to 1998. A complaint pertaining to this old issue was admitted and considered by the Forum and a speaking order dated 04.03.2008 was passed. The petitioner claims to be aggrieved by the said order but has filed this representation after more than 14 months of the forum's order against the period of 30 days prescribed in the Regulations. As pointed out above, even this delayed representation suffered from severe deficiencies which were partly removed on 02.04.2010, i.e. 25 months after the

date of the impugned order. The petitioner had requested condonation of this abnormal delay for reasons listed out in its application. This delay of over 24 months is sought to be explained by the time required within the petitioner company to arrive at a decision to challenge the impugned order. A careful reading of these reasons listed in the condonation application do not offer any convincing explanation for this abnormal delay and are indeed a sad reflection on the petitioner company's own procedures and decision making process. None of the reasons offered by way of explanation suggests that the delay was for reasons beyond the petitioner company's control or was unavoidable. On the contrary the matter has been shuttling between various authorities within the company who have dealt with it in a totally non serious manner. In short, no convincing explanation for this abnormal delay has been given, and there is no reason for condoning the same and entertaining this matter after a lapse of more than 24 months of the Forum's order.

4. The grievance being now agitated also pertains to actions of the erstwhile UPSEB taken in 1998, i.e. 12 years back. Instead of taking up the matter with the UPSEB authorities, right then, it was taken before the Forum in 2005 that is after 7 years. Notwithstanding this delay, the Forum has examined the matter and passed an order on 04.03.2008. The petitioner company has once again sat over the issue for more than 2 years and now want to challenge the Forum's order without giving any convincing reason for its inaction. Even though the representation was already over delayed, the petitioner took another nine months to file proper authority. Further, the Board of Directors has authorised CGM Tehri to sign and file the petition and other papers. However this representation has been signed by one Shri A.L.Shah and as per his own affidavit, he has taken this action as General Manager (Project), though the Board of Directors had authorised CGM Tehri for this purpose.
5. Both parties are government owned companies, the matter is 12 years old and pertains to the erstwhile UPSEB and the present representation has been filed with a delay of 24 months over and above the period of 30 days prescribed in the Regulations. The representation is also not in conformity with the decision of the Board of Directors.
6. Accordingly, the representation which is time barred and has been made in a non serious manner, is hereby rejected.

Dated: 22.07.2010

Divakar Dev
Ombudsman