

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Mohd. Ayub and Mohd Essa
S/o Mohd. Fazal, 826, Azad Nagar,
Roorkee, Distt. Haridwar, Uttarakhand

Vs

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

Representation No. 02/2011

Order

Shri Mohd. Ayub and Mohd. Essa (petitioners) have filed a representation against the order issued by the Consumer Grievance Redressal Forum, Garhwal Zone (Forum) dated 03.02.2011.

2. Brief facts of the case are that the petitioners, Mohd. Ayub and Mhod. Essa, are the owners of a house, 826, Azad Nagar, Roorkee, Distt. Haridwar. They filed a representation in the Forum, dated 04.07.2009 against providing of a new electric connection (no. 121280, book no. 0145, division 683, EDD, Roorkee, Meter no. 95484) on 04.08.2005, to their tenant Smt. Sabbiran in one room of the same house. They have contended that the connection was incorrectly given by the UPCL to the tenant as it was given without obtaining an NOC from the owner as required under UERC (Release of new LT connections, enhancement and reduction of loads), Regulations 2007 section 4 (a)(v), which requires that along with other documents, a person, who is not the owner of the premises, should furnish a no objection certificate (NOC) from the owner of the premises. They have claimed that no such NOC was given by them. They have also maintained that a notice no. 2693 dated 28.03.2009 was issued by the Executive Engineer to Smt. Sabbiran, however no further action has been taken. It was also mentioned that the owner's name was incorrectly given and should be changed in the name of Mohd. Ayub and Mohd. Essa. They have requested for discontinuing the connection given to their tenant Smt. Sabbiran.

3. In their order dated 03.02.2011, the Forum ordered that the owner's name should be correctly represented as pleaded by the petitioners. On the plea that the tenant's connection be disconnected, the Forum has taken the stand that according to the Uttarakhand Electricity Regulatory Commission (UERC) Regulations the petitioners cannot be treated as 'consumer' and hence their plea is rejected.
4. Petitioners filed a representation dated 28.02.2011, within the time limit (30 days from the date of the receipt of the Forum's order) in the office of the Ombudsman. They submitted a petition as owners of the house. In the application they have asked for the order of the Forum to be quashed and strictures to be passed against the Forum for the procedural lapses as perceived by them. They have also claimed for reimbursement for the expenditure made by them during the two years of following up the case with the Forum, approximately Rs. 1,45,000.00, which should be paid by the Executive Engineer, Electricity Distribution Division (Urban), Roorkee (Respondent) and the Forum. They have also asked for the disconnection of the connection given to their tenant on the basis of their original complaint claiming that under the UERC (Release of new LT connections, enhancement and reduction of loads), Regulations 2007 the no objection certificate was not given by them.
5. Since then the complainants have made two more submissions. In each, they have added some more complaints and brought in new facts viz. questioning the manner in which the electricity connection was given to the tenant despite the forms not being complete and quoting various different Rules. On 15.06.2011, they made another submission wherein they contended that the columns under the application form for the new connection as appended with the UERC (Release of new LT connections, enhancement and reduction of loads), Regulations 2007 have not been correctly filled and that the documents submitted by the tenant are not sufficient to establish his/her tenancy. They also pointed out various shortcomings in the way that their petition was handled by the Forum. In their reply dated 22.07.2011 the respondent, Executive Engineer, UPCL has contended that the rules and regulations as laid down were followed and the connection given correctly. They have further stated that certain shortcomings like dates etc. may have been left out due to oversight.

6. The next submission dated 23.07.2011 was received in the office of the Ombudsman in which the petitioners have once again reiterated that the form was incorrectly filled and further mentioned that the meter has been wrongly installed within the room of the tenant which is against the Electricity Supply (Consumers) Regulations, 1984. In the rejoinder handed in by them on August 17, 2011 they have now quoted the Electricity Supply (Consumers) Regulations, 1984 and claimed that UPCL has not brought out which rules were applicable in 2005 when the connection was given. They have again reiterated that the 'Grah Kar Receipt' produced by Smt. Sabbiran is not sufficient to prove that she was a tenant but was only Form No. 5 which is a receipt of the application fee for applying for registration of the name as tenant.
7. I have gone through the documents on the file and have heard the parties. A final hearing was held on 17.08.2011, where both parties agreed for final arguments. The main issue is the allegation that the electricity connection was wrongly given to the petitioner's tenant as no NOC was taken from them as required under the UERC (Release of new LT connections, enhancement and reduction of loads), Regulations 2007. Subsequently they brought in various issues like incorrect filling of the form, dependence on questionable documents by the respondent and demanded action and monetary reimbursement against the Forum for the order passed by them.
8. In the year 2005, the UERC (Release of new LT connections, enhancement and reduction of loads), Regulations 2007 were not applicable as they had not been formulated as yet. At the time the Electricity Supply (Consumers), Regulations, 1984 were in use. Under the above mentioned Regulations Section 3 (1)(b) states.

*“Any applicant, who is not the owner of the premises, shall obtain a “no objection certificate” from the owner of the premises he occupies, in his requisition form. The responsibility for its authenticity will be on applicant. Connection released to the applicant on such certificates which are found fake will be liable to disconnection. **If the applicant, who is not the owner of the premises, fails to obtain the “No Objection Certificate” from the owner of the premises, then he shall, if so required by the Board, give proof of his being in lawful occupation of the premises and also execute an indemnity bond indemnifying the Board, against the losses on account of disputes arising out of the supply of electrical energy to the occupant.**”*

This clearly shows that the regulations have a provision to provide connections even in the absence of a NOC. Hence the contentions of the petitioners that the connection was illegally given because an NOC was not taken from them as owner of the premises is not correct.

9. As regards their accusations that various procedural irregularities were made by the office of Executive Engineer, Electricity Distribution Division (Urban), Roorkee, it appears from the perusal of the papers that indeed there were shortcomings in the Form filled by the consumer to be granted the connection as well as reliance on uncertain documents showing the tenancy of the applicant for the connection. These matters may be examined internally by the UPCL and action taken.

10. The monetary claim of the petitioners cannot be upheld as it was their decision to follow up the case and seeing their habit of making submissions with new accusations, it is possible that the case got extended due to the need to get the response of the other party. However it is seen that though the application was made in March 2009, the Forum took over a year and half to give their judgement. Even there it has been noticed that while the quorum decided the case on 15.12.2010, the final judgement was only passed on 03.02.2011. The Forum would be advised to avoid unnecessary hardship to aggrieved petitioners and decide the cases expeditiously. The contention of the Forum in dismissing the application of the petitioners on the ground that they cannot be treated as a complainant, as they are not 'consumers' under the UERC Regulations does not appear to be correct as section 2 (15) of the Electricity Act, 2003 states

*“Consumer means any person who is supplied with electricity for his own use by a licensee or the government or by any other person engaged in the business of supplying electricity to the public under this act or any other law for the time being enforced and **includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the government or such other person, as the case may be.**”*

11. For the reasons given above the petition is rejected. However as per the notification issued by the UERC on August 7, 2007 amending the UERC (Release of new LT connections, enhancement and reduction of loads), Regulations 2007 section 4 (3)(v)

“...the owner of the premises, if different from the applicant, shall not be liable for payment of any due against such connection”.

Hence any dues run up by the tenant on the electricity connection taken by her cannot be raised against the owner of the premises in this case the petitioners. It has been claimed by the petitioners that there are outstanding dues against the tenant. This may also be looked into, by the UPCL in their own interest.

12. On 18.08.2011 the petitioner, Mohd. Essa visited the office of the Ombudsman and handed over a application asking for all the papers submitted by him to be returned to him. As there is no procedure for the same, his request is denied.

Dated: 08.09.2011

Renuka Muttoo
Ombudsman