

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Shri Trilok Singh Chauhan
S/o Shri Nain Singh Chauhan
205, Dehradun Road,
Rishikesh, Uttarakhand

Vs

1. S.D.O., Electricity Distribution Division,
Uttarakhand Power Corporation Ltd. Shail
Vihar, Rishikesh, Uttarakhand
2. The Executive Engineer, Electricity
Distribution Division, Uttarakhand Power
Corporation Ltd. Shail Vihar, Rishikesh,
Uttarakhand

Representation No. 01/2014

Order

The petitioner filed an appeal before this office on 13.01.2014 against the order of the Consumer Grievance Redressal Forum, Garhwal zone (hereinafter referred to as Forum) dated 13.12.2013 against the demand for Rs. 62,115.00 made by the Uttarakhand Power Corporation Ltd. (hereinafter referred to as respondent).

2. As the petitioner is an aged man, he was represented by his son for this case. The respondent objected to this and the petitioner's son submitted a power of attorney in his favour issued by his father, the petitioner. The petitioner stated that he had applied for a commercial connection for the premises 205, Dehradun Road, Rishikesh in 2010 but the respondent gave a wrong report that arrears were due from this premises and refused to give the connection to him. The petitioner maintains that there were no arrears due from this property. The arrears claimed by the respondent were against another property of the petitioner, 45, Adarsh Gram, Bus Stand, Rishikesh and even these arrears were not due from the petitioner but from his tenants at the second address.

3. The petitioner further mentions that in 2012 the respondents published advertisements in newspapers that anyone giving information about electricity theft would be given a prize. In response the petitioner claims that he gave information against staff of the respondent who were involved in the theft of electricity. He claims that instead of taking any action against such wrong doers the respondent regularized two of these illegal connections. He has given further details of the cases which are not germane to the present case. The petitioner has alleged that instead of taking action against wrong doers the respondent penalized him, by not giving him the new connection and further imposing a penalty of Rs. 62,115.00 on 28.09.2012 without any prior intimation or explanation. The petitioner has mentioned that he received the copy of the order of the Forum only on 26.12.2013 by post. The petitioner has prayed that the penalty imposed on him should be waived and a commercial connection as requested by him be given to him. The petitioner also requested for a stay against any action by the respondent to recover the arrears from him. The stay was not granted.
4. The Forum in their order stated that the petitioner should present his case to the respondent by 31.12.2013 and the respondent should finalize assessment after hearing the petitioner by 10.01.2014. Regarding the dues pending against the four tenants which connections were permanently disconnected, the respondent should finalize their cases and lastly the Forum ordered the respondent to dispose of the application for a new connection as per Uttarakhand Electricity Regulatory Commission (UERC) Regulations.
5. The respondents in their statement have claimed that the petitioner's statement is wrong that there are no dues on the connection at no. 205, Dehradun Road, Rishikesh. They have not commented whether there are dues on the other address of the petitioner 45, Adarsh Gram, Bus Stand, Rishikesh. The respondents state that there was an inspection on 28.09.2012 at the premises of the petitioner and it was found that the petitioner was using domestic connection for commercial purposes i.e. running a guest house. The petitioner was given a show cause notice cum provisional assessment for Rs. 62,115.00, which was finalized on 30.07.2013. On account of the order of the Forum, the assessment was revised and reduced to Rs. 53,964.00.
6. The respondent has maintained that neither this office nor the Forum has any authority in the present case in respect of waiving off the assessment made under

section 126 of the Electricity Act, 2003. Further the respondent claims that the petitioner only applied for a connection for 5 KW for commercial purposes at 205, Dehradun Road, on 02.05.2013. As there were dues against the petitioner the new connection could not be given. The respondent has also mentioned that prior to applying for the new connection, the petitioner had been sanctioned 4 other connections earlier which had to be disconnected due to non payment. Even till date the petitioner has not paid his dues of Rs. 52,964.00, the total sum due on 31.01.2014 being Rs. 41,102.00 and hence he could not be sanctioned a new connection.

7. After examining all the documents and hearing the arguments, two main issues are framed. 1) Was the respondent correct in not granting a new connection to the petitioner 2) whether there was unauthorized use of electricity.
8. With reference to grant of new connection, it is clear that the petitioner owns two separate premises. The new connection was requested for the premises at 205, Dehradun Road, Rishikesh. From the arguments presented by the respondent it appears that there were dues against four tenants of the petitioner at another address 45, Adarsh Gram, Bus Stand, Rishikesh. On the basis that arrears were due against the petitioner the respondent refused to sanction the new connection. The Rules regarding the responsibility of the landlord in such cases has been made very clear by the UERC in Uttarakhand Electricity Regulatory Commission (Release of New LT Connections, Enhancement and Reduction of Loads) (First Amendment) Regulations, 2007.

“(2) after clause (v), the following provisos shall be inserted, namely:- “Provided that in case the applicant is unable to submit any of the document listed at (i) to (v) above then the applicant shall be charged thrice (except for BPL consumers) the amount of security as per Table 1 given in Regulation 5(10) and clause (iii) of Regulation 5(10) respectively. The owner of the premises, if different from the applicant, shall not be liable for payment of any due against such connection.”

9. Thus it is very clear that the landlord i.e. the petitioner cannot be held liable for the dues against his tenants. Moreover in this case the dues were for another premises and not for the premises for which the petitioner had requested the new connection. The action of the respondent in not giving the new connection is wrong. In this connection

it may be mentioned that on the last day of hearing (28.04.2014), the petitioner presented a letter that he had deposited all the charges shown against him i.e. Rs. 45,103.00 on 01.04.2014. However when he approached the SDO on 02.04.2014 he refused to accept the application for a new connection. The same was submitted by the petitioner to the Executive Engineer on 03.04.2014. Despite having deposited the cheque on 01.04.2014, the connection had not been released till 28.04.2014. The connection was only released on 29.04.2014 on the express orders of the Ombudsman. With this action, the plea of the petitioner for a new connection, has been complied with.

10. Regarding unauthorized use of electricity as per the inspection report dated 28.09.2012 the petitioner was reported to be using connection sanctioned for domestic use for commercial use, his signature is also available on the inspection report. As this falls u/s 126 of the Act the matter being out of the jurisdiction of this court is not being dealt with. The order of the Forum is set aside. The Forum did not have any authority to comment on the assessment made by the respondent under section 126/135 of the Electricity Act, 2003.
11. I would like to however point out that there has been gross negligence on the part of respondent in not adhering to the rules laid down in the Electricity Act and LT regulations for release of a new connection in the time specified by the UERC. The respondent himself has admitted that the petitioner had applied for a new connection in 2010. The respondent had turned it down on wrong grounds that arrear was outstanding on the tenants. The reasons for rejecting the application for a new connection in this case were not in accordance with the UERC Regulations. I would request the Head Office of the respondent to enquire into this matter and take corrective action against defaulting officials, as two cases of delay in new connections from the same division i.e. Rishikesh have appeared before this office.

Dated: 23.05.2014

(Renuka Muttoo)
Ombudsman