

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Shri Tek Chand Chauhan
S/o Late Shri Swarn Singh Chauhan,
Jollygrant, Farm House,
Dehradun, Uttarakhand

Vs

The Executive Engineer,
Electricity Distribution Division,
Uttarakhand Power Corporation Ltd.
Shail Vihar, Rishikesh, Uttarakhand

Representation No. 02/2014

Order

The appeal of petitioner Shri Tek Chand Chauhan was admitted in the office of Ombudsman on 17.01.2014. The petitioner has appealed against the order dated 13.12.2013 of the Consumer Grievance Redressal Forum, Garhwal zone (hereinafter referred to as Forum) in his case against Uttarakhand Power Corporation Ltd. (hereinafter referred to as respondent) demand for Rs. 15,82,603.00.

2. The petitioner claims that he is operating Chauhan Farms near Jollygrant and had carried out construction between 2009-11. On 16.03.2011 he requested the respondent for a 40 KW connection to his premises. He claims that on 16.03.2012 he received a demand for depositing Rs. 71,000.00 for taking the 40 KW connection at his premises. The petitioner maintains that he deposited the amount on 19.03.2012.
3. He further states that during the period mentioned above, he hired out his premises to tenants and was providing them electricity through a 62 KW generator. He has also informed that in November 2012 he started giving electricity supply to his tenants from his other connection of 50 KW. Subsequently, in December 2012, because of overloading the transformer connected to this 50 KW connection, got burnt and the petitioner got the lineman to make the connection for the entire premises from his tube well connection. He thus connected the tube well supply to non tube well connection. Due to overloading of this connection the tube well meter got burnt on

20.01.2013. The petitioner then informed the lineman of the situation and the lineman informed the Junior Engineer.

4. The petitioner has alleged that on 14.03.2013 the local JE came to his premises and threatened him with misusing the domestic connection and made a demand for Rs. 2,00,000.00. The petitioner claims he refused the demand and on 30.03.2013 he received a letter dated 16.03.2013 with an assessment for Rs. 15,82,603.00, under section 126/135 of the Electricity Act, 2003, for using electricity by unauthorised means at his premises.
5. The petitioner claims that he wrote to the respondent on 18.03.2013 requesting that his new connection for which he had deposited Rs. 71,000.00, be released at the earliest and the demand for Rs. 15,82,603.00 be withdrawn as there had been delay in giving him the connection. The petitioner states that he received a letter dated 02.04.2013 from the Executive Engineer explaining that the new connection for which he had deposited security was for domestic use whereas he was found using electricity for commercial use. The new connection was released on 20.03.2013.
6. On 03.08.2013 the petitioner requested the respondent for the MRI report of his burnt meter for further action. He claims the respondent sent another letter dated 23.07.2013 that an amount of 15,82,603.00 was pending against him for electricity theft and if he did not pay this money immediately, action under section 126/135 of the Electricity Act, 2003 would be started against him. The petitioner however claims that without receiving the MRI for the burnt meter he does not have any idea of his consumption. He insists that he is willing to pay for the exact consumption shown in his meter. The petitioner blames the respondent that because he was not given his new connection for over a year he was forced to use the tube well connection. He claims that there was no electricity theft by him. Unhappy with the response of the respondent the petitioner approached the Forum with a complaint.
7. The Forum in their order asked the respondent to review the provisional assessment u/s 126 of the Electricity Act, 2003 on the basis of the letter sent to them by the petitioner and finalize the same within 15 days of the order. The Forum has also imposed a penalty on the respondent @ Rs. 710 per day for 366 days amounting to Rs. 2,59,860.00. Aggrieved by the amount of compensation the petitioner has approached the Ombudsman that the respondent admitted before the Forum that the

petitioner had applied for a new connection of 40 KW, vide application dated 16.03.2011. The petitioner maintains that the new connection was given after two years and hence he should be given compensation for the full two years and not just for 366 days. The petitioner has quoted UERC Regulations, 2007 under which he claims compensation @ Rs 1000.00 per day for delay beyond 30 days in release of new connection has been provided. He has therefore claimed that he should be compensated at this rate for two years.

8. The respondent in his statement mentioned that the petitioner has made unauthorized use of electricity which came to notice in the inspection of 12.03.2013 where it was found that the petitioner was using a tube well connection for his hostel. An assessment for Rs. 15,82,603.00 was made and sent to him. The respondent has maintained that it is denied that the petitioner had submitted an application for a new connection of 40 KW on 16.03.2011. The respondent has also denied that any compensation under the existing rules and regulations is due to the petitioner. The respondent maintains that the Forum has no jurisdiction to grant any compensation for late connection and has erred in giving directions to the respondent on the formulation of the assessment.
9. The respondent maintains that the petitioner's application was received and entered in the receipt and dispatch register on 18.01.2012. A note for a deposit of 95,000.00 was prepared on 03.02.2012 and the same was revised to Rs. 71,000.00 and a revised deposit note was issued on 16.03.2012. The petitioner deposited the amount on 19.03.2012. The respondent has also drawn attention to petitioner's letter dated 08.11.2011 wherein the petitioner has written to the respondent and complained about the delay with connection to his application of 16.03.2011. The respondent has pointed out that in this letter, the petitioner himself has admitted that the application of 16.03.2011 was for two connections of 25 KW domestic and 5 KW commercial. Thus it proved that the petitioner did not apply on 16.03.2011 for a 40 KW connection as claimed by him in his petition. The respondent has also mentioned that the petitioner has a number of other connections and is carrying on the business of constructing flats and renting them out. The petitioner had applied for the 40 KW connection for a building which had a number of flats. The building was under construction and the petitioner did not submit any report about completion of the building, only vide his letter dated 18.03.2013 did he make it clear that he required the

connection. A new transformer was required for the connection, which was arranged and the connection was given to the petitioner on 20.03.2013.

10. The respondent has also alleged that the employees of the respondent went to the premises of the petitioner to give the connection, however the petitioner did not cooperate. Respondent has drawn attention to the petitioner's statement that he took power from other connections available with him which caused the transformer to burn and thereafter the meter of the tube well was also burnt. This resulted in loss to the respondent. It is not known what supply was used by the petitioner for building such a large number of flats as there is no record to show that the petitioner ever took temporary connection for construction of the huge complex. The petitioner had started letting out the flats in this complex prior to getting the connection as is evidenced by the agreement entered into by him with a tenant on 01.01.2013. Thus he was providing electricity to the tenants much before the new connection was given on 20.03.2013.
11. There are two issues in this case. 1) Was there delay by the respondent in releasing a new connection to the petitioner and whether the petitioner is entitled to any compensation in case of delay 2) is the respondent's action in sending assessment u/s 126 of the Act, correct or not.
12. From the examination of the documents produced and the arguments made, it would appear that the petitioner did not apply for a new connection of 40 KW on 16.03.2011 as his own letter of 08.11.2011 talks about two connections of 25 KW (domestic) and 5 KW (commercial) being requested for by the 16.03.2011 letter. As the petitioner has not produced any application letter, we would have to go by the document submitted by the respondent showing the application receipted on 18.01.2012. The demand charges were raised by the respondent on 16.03.2012 and payment completed on 19.03.2012. If we take 18.01.2012 as the date of application then u/s 43 of the Electricity Act, 2003 and LT Regulations the new connection should have been given within 3 months of the application since in this case installation of transformer was required. Thus the new connection should have been given to the petitioner by 18.04.2012, instead it was given nearly a year later on 20.03.2013. None of the arguments given by the respondent explain the delay or excuse the same.

13. There is no provision for any compensation to be given to the consumer for delay in release of new connection. Under the UERC (Release of New LT Connections, Enhancement and Reduction of Loads) Regulations, 2007 and UERC (Release of New LT Connections, Enhancement and Reduction of Loads) Regulations, 2013

“5. Processing of an application by the licensee

13/15)) Licensee shall submit to the Commission monthly division-wise report containing details of number of connections that were not energised within specified period and shall also deposit with it the penalty accrued on account of such defaults.”

14. This makes it clear that the penalty if any has to be paid by the respondent to the Commission and not to the petitioner. There is no provision anywhere else including the Standard of Performance for any compensation to the consumer. Hence no compensation can be given to the consumer/petitioner.
15. From the facts brought out both in the application of the petitioner and the statement of the respondent it is clear that the petitioner was diverting electricity supply from other connections for commercial purpose viz. providing supply to his tenants hence it was unauthorized use of electricity i.e. using for a purpose other than for which it was sanctioned. This case falls under section 126 of the Electricity Act, 2003 and action has been correctly taken by the respondent.
16. The Forum erred in its order by giving compensation to the petitioner as there is no provision for the same. The Forum also could not give any comments on the assessment u/s 126 of the Act. The order of the Forum is set aside. The petitioner if he has any complaints can appeal to the appellate authority u/s 127 of the Act.
17. I would like to however point out that there has been gross negligence on the part of respondent in not adhering the time schedule laid down in the Electricity Act and LT regulations for release of a new connection. 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