

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

M/s Vedmata Gayatri Trust
Gayatri Teerth, Shantikunj
Uttarakhand

Vs

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

Representation No. 23/2015

Order

The petitioner, M/s Shree Vedmata Gayatri Trust have filed this petition on 24.08.2015 even though the order of the Consumer Grievance Redressal Forum, Garhwal zone (hereinafter referred to as Forum) dated 15.04.2014 has partially accepted their request and the same has been complied with, and have sought relief of pending deposit with interest as per prevailing Government orders/relevant Uttarakhand Electricity Regulatory Commission (hereinafter referred to as UERC) Regulations.

2. The case in brief is that the founder of Shantikunj, Haridwar, Pandit Shri Ram Sharma Acharya's birth centenary celebrations were held from 06.11.2011 to 10.11.2011. For these celebrations temporary electricity connections for mela area were required for which as per estimate submitted by respondent a sum of Rs. 32.55 lacs was deposited by the petitioner. A total of 22 temporary connections were given of which 17 were domestic in nature and the rest non domestic. Since, despite provisions in the Regulation, and persistent follow up with department, due refunds were not given to the petitioner, they were compelled to approach the Forum on 28.12.2013. The Forum, in their order dated 15.04.2014, directed that material security may be refunded after deducting charges for 17 domestic and 5 non domestic connection bills. Respondent therefore amended the bills according to the order of the Forum and apart from Rs. 2,57,861.00 which had already been allowed,

a further amount of Rs. 3,24,138.00 was adjusted in the bill of 07/2014 whereas the electricity charges were indicated as Rs. 7,16,405.00. Petitioner has complained that despite clear provisions in the UERC (The Electricity Supply Code) Regulations, 2007 under clause 2.2 (8) that after disconnection and dismantling, the security should be refunded within 15 days from the date of disconnection failing which interest shall be payable by the Licensee, this refund has still not been made for which the petitioner has approached the Ombudsman.

3. The petitioner had made the same request before the Forum and since the billing for all connections had been done by UPCL on commercial rates, they have further asked for billing for 17 connections under domestic tariff and the balance under non domestic. Having heard the parties, the Forum found justification in the request of petitioner for application of domestic tariff to 17 temporary connections, but only recorded the adjustment given by the respondent in respect of security without any orders thereto. Application of domestic tariff (RTS1 + 25%) on 17 temporary connections and non domestic tariff (RTS2 + 25%) on 5 connections was allowed.
4. Aggrieved by the order of the Forum petitioner have approached the Ombudsman with the above mentioned request namely: refund of consumption security as per provisions of chapter 2.2 (8) of the Supply Code, Regulations. They have also claimed that after adjusting Rs. 7,16,405.00 towards consumption and Rs. 5,45,020.00 towards work and dismantling, a sum of Rs. 19,93,575.00 should be mandatorily refunded to the petitioner which will be justified. The respondent in their written statement have stated that while they had billed the consumer on commercial rates and had adjusted an amount of Rs. 2,57,861.00, after order of the Forum a further adjustment of Rs. 3,24,138.00 had been allowed vide their order dated 09.07.2014. Since Forum had not given any order regarding material security no action was called for and respondent have comprehensively complied with the orders of the Forum. They have also alleged that the claim of Rs. 19,93,575.00 by Vedmata Gayatri Trust is completely wrong.
5. Both parties were heard and the file of the Forum was called for. The petition before the Forum was for refund of material security and for application of appropriate tariff according to the connection given. The point before the Ombudsman pertains only to

refund of material security as per provisions of Regulation 2.2. (8). This Regulation provides as under:

“2.2 Procedure for New Connection for Temporary Supply

(8) On expiry of the temporary connection the consumption security, after adjusting the unpaid dues shall be refunded by the licensee. Similarly, Material Security shall also be refunded after deducting any damage to material (such as meter, transformer, isolator etc) and dismantling charges, which shall not be more than 10% of the material security. Refund of these securities shall be made within 15 days from the date of disconnection failing which an interest as per Regulations 2.3.1 (4) below shall be payable by the licensee.”

6. The respondent have stated in their written statement that a total of Rs. 13,24,532.00 was charged as supervision and contingency charges on the erection and dismantling cost. These charges have been claimed as per Office Order no. 196-D(O)-UPCL-T10 dated 30.01.2002. Respondent have therefore claimed that having complied entirely with the orders of the Forum no further adjustment of payments is called for to the petitioner. It is seen that the Regulations came into effect from 17.04.2007. The Regulations contained provisions for incorporation of previously prevailing orders as below:

“6. (4) Any terms or conditions of the Distribution Licensee, whether contained in the terms and conditions of supply and/or in any circular, order, notification or any other document in communication, which are inconsistent with these regulations, shall be deemed to be invalid from the date on which these Regulations come into force.”

Since provisions of circular dated 30.01.2002 providing for charging supervision and contingency charges are inconsistent with the provisions of sub Regulation 2.2 (8) of Supply Code Regulation 2007, this circular is held invalid.

7. On examination of the records and after hearing arguments of both the parties it is concluded that as per respondent only 581999.00 were payable to the petitioner after adjusting the erection dismantling labour charges, cost of damaged material, supervision and contingency and bill amount which has already been refunded to them by way of adjustment in the bills for 06/2013 and 07/2014 of their connection

1415 and hence nothing more is payable or refundable to them. As per petitioner only Rs. 13,48,469.00 was payable by them (Rs. 7,16,405.00 energy charges, Rs. 5,45,020.00 erection dismantling and cartage charges and Rs. 87,044.00 cost of damaged material and so Rs. 19,06,531.00 should have been refunded to them against which only Rs. 5,81,999.00 has been refunded by way of adjustment in the bills for 06/2013 and 07/2014 of their connection no. 1415 and as such Rs. 13,24,532.00 which are the supervision and contingency charges as also confirmed by the respondent vide their letter dated 09.07.2015, sent to the petitioner as well as enclosed with written submission before Ombudsman as annexure 9, is still to be refunded to them. Since they have to be charged only as per provisions of sub Regulation 2.2 (8) of Supply Code Regulations, 2007 and supervision and contingency charges has not been provided for in the said Regulation, this amount of Rs. 13,24,532.00 should be refunded to them along with interest as per Sub Regulation 2.3.1 (4) of the said Regulation.

8. As discussed in para 6 above the Circular dated 30.01.2002 under which supervision and contingency charges have been claimed by the respondent, has become invalid after coming into force of Supply Code Regulations, 2007 with effect from 17.04.2007. The respondent's claim for supervision and contingency charges is not maintainable and demand of the petitioner for refund of this amount is held justified. Therefore the respondent are directed to refund Rs. 13,24,532.00 along with interest @ provided for in the Regulations to the petitioner. Forum order as passed is upheld. It is noted that Forum refrained from passing any order/finding on refund of supervision and contingency charges even while they observed this as a prayer of the petitioner. The petition is allowed.

Dated: 21.12.2015

(Vibha Puri Das)
Ombudsman