

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Haji Mohd. Yakub Siddiqui
7B, Open Shopping Complex, Bairadi,
New, Tehri, Uttarakhand.

Vs

The Executive Engineer,
Electricity Distribution Division,
Uttarakhand Power Corporation Ltd.
New Tehri, Uttarakhand.

Representation No. 05/2016

Order

The petitioner, Haji Mohd. Yakub Siddiqui has filed this petition against the order dated 31.03.2016 of Consumer Grievance Redressal Forum, Garhwal zone (hereinafter referred to as Forum) in complaint no. 178/2015. The petitioner has alleged that while the Forum recognized that the raid party had indeed given the order for disconnecting the electricity connection and on the date of the raid the meter reading in his meter was 30541 and while Forum has recognized that undue delay was caused by UPCL in permanently disconnecting the connection and appropriate action is warranted against responsible officials, the bills raised against the petitioner are misleading and against rules, but Forum have refrained from granting any relief to petitioner. Petitioner has also claimed that in view of the above finding of the Forum, he is entitled to benefit of section 56 (2) of the Electricity Act, 2003, but the Forum in their order have denied this benefit to the petitioner. The petitioner has further alleged that usage of the meter beyond 30541 and up to 43900 is the responsibility of the UPCL employees rather than the petitioner. The employees had installed this meter at another premises and hence they are liable for misutilization of energy. Petitioner has further claimed that Executive Engineer by exercising undue authority recovered a sum of Rs. 75,000.00 from the petitioner and hence a total sum of Rs. 1,58,000.00 has been recovered from the petitioner for metered consumption of 30541 units only. A sum of Rs. 1,13,534.33 was levied on him as per the PD report prepared by Executive Engineer, New Tehri. However, when PD had been done in 2007 petitioner has

alleged how can left over dues be assessed in 2011. Further it is not clear how reconnection was done and on what basis while the department had not posted any demand during the period 2007 to 2011. Petitioner has therefore requested that interest levied in the recovered amount of Rs. 1,58,000.00 be refunded to him and adjustment of dues be made against this deposit, while refunding the excess amount deposited by him. The petitioner has raised following objections/allegations.

- i) The reading as per checking report was 30541 and as per directions mentioned on the report the connection was disconnected immediately and as such he is liable to pay up to that reading and he has already paid Rs. 83,000.00 up to that reading.
- ii) There was delay of 4 years in issue of PD so under section 56 (2) of the Electricity Act, 2003 the respondents are not entitled to recover these dues.
- iii) The meter was used somewhere else unauthorizedly where energy from reading 30541 to 43900 was misutilized.

2. The Forum in their order have stated that in order to assess the validity of petitioner's claim that his connection had been disconnected by the raid team at reading 30541, they required Executive Engineer to submit the ledger record, meter reader binder and consumer history. While all these documents were submitted to the Forum, the reading available in the meter reader binder, for the period June 2006 to November 2007, is 43544. The ledger record also gives the same reading and this meter, after permanent disconnection, was installed against connection no. TH09910060616 in favour of Shri Rajendra Singh on 15.01.2008. The meter reading on this date was 43990. The Office Memorandum issued after permanent disconnection of Haji Mohd. Yakub Siddiqui connection also shows the final reading as 43990 (as per record of PD this reading is 43900). Even though the petitioner raised the issue of why recovery efforts were not made for 4 years between 2007 and 2011 and invoking provisions of section 56 (2), Forum held that Rs. 1,13,534.00 recoverable amount mentioned in the PD Office order is appropriate and recoverable. The complaint was dismissed while opposite parties were directed to take appropriate action against employees responsible for extraordinary delay in preparing the PD on 06.05.2011 while the connection had been permanently disconnected on 22.12.2007.

3. Respondent in their written statement have contested the petitioner's statement regarding action by raid team and have claimed that the letter from the raid team was not received in their office. Hence no action was taken by the department and they have further alleged that due to mounting arrears, petitioner's connection was disconnected temporarily on 30.10.2007 whereas the connection was permanently disconnected on 22.12.2007 which has been mentioned by the JE in MB no. 242 of 22.12.2007. The Annexure no. 3 filed by petitioner has also been claimed as evidence of the same. Respondent have further claimed that there is no significant delay in disconnection on 30.10.2007; it is only the issue of order regarding PD report that was somewhat delayed. After disconnection on 30.10.2007 and because no reading was displayed in November 2007 bill, a bill without reading and on estimated basis was sent with a final due amount of Rs. 1,13,648.00 with due date of 24.12.2007. Copies of bill and ledger have also been filed by respondent. They have also maintained that their assessment and notice for recovery is justified as is evident from the fact that the Collector has recovered Rs. 68,000.00 vide receipt no. 13/033032 dated 31.03.2016.
4. Arguments have been heard and the records available on file have been perused. Respondent were repeatedly asked to submit checking report at page 3 of book no. 72 so that it is known on what date the raid on premises of Shri Siddiqui was conducted. This document was not filed on the basis that it is not available in the office. Petitioner's case hinges on the report of the raid team which does not carry a date but has the inscription "*अधिकासी अभियन्ता, विद्युत वितरण खण्ड नई टिहरी को इस आशय से प्रेषित है कि उपभोक्ता का कनेक्शन तुरन्त कटवा दें। आवश्यक धन का निर्धारण करके वसूली करें तथा सूचना सम्बन्धित अधिकारी को प्रेषित करें।*". (The words in italic are all part of the printed form while the report is handwritten.) Petitioner has claimed that since the electricity in his premises was cut off as per the direction of the raid team when the meter reading on his meter was 30541, the consumption against the meter from reading 30541 to 43544 is not chargeable to him. This energy has been used by another consumer and this unauthorized use has been made possible by the UPCL. In this context, bills are available for the whole period from 28.02.2006 to 28.11.2007 from reading 31998 on 28.02.2006 to 43544 on 28.10.2007. Barring some bills issued on assessed units, (the amount of such bills have since been adjusted in the subsequent bills), only metered consumption has been billed during the said period. The availability of all these bills showing metered units and two payments made by

the petitioner indicates that the meter continued to function and there is no evidence to show that the connection at Haji Mohd. Yakub Siddiqui's premises was disconnected at reading 30541 and the said meter utilized at another location. Further, two bills show payment of Rs. 19,800.00 on 29.03.2007 vide receipt no 07328637 as shown in the bill from 28.02.2007 to 28.03.2007 issued on 10.04.2007 and Rs. 3,000.00 paid on 25.04.2007 vide receipt no. 08640939 as shown in the bill for the period 28.03.2007 to 28.04.2007 issued on 12.05.2007. Photocopy of receipt no. 073286/37 dated 29.03.2007 shows details of the amount deposited as Rs. 19,800.00 electricity charges (P.P) plus Rs. 200.00 which indicates that the connection was reconnected after this part payment.

5. Thus bills were continuously being issued till 28.11.2007. The final bill of 28.10.2007 to 28.11.2007 shows the reading on 28.10.2007 as 43544 and reading on 28.11.2007 NR with billed units 750. The connection of the petitioner was therefore alive till this point. The respondent have claimed that the connection was temporarily disconnected on 30.10.2007 and permanent disconnection was done on 22.12.2007 as per the JE's PD report. Meter no. 02281096 showing final reading 43900 was taken on stock vide MB No. 242 page 67 dated 22.12.2007. As per calculation of arrears available on file, the outstanding balance on 28.10.2007 at reading 43544 is shown as Rs. 1,09,731.00 The balance 356 units left to be billed between temporary disconnection and PD (43900-43544) and cost of cable and PD charges has also been worked out hence total dues payable has been shown as Rs. 1,13,534.33. Dues as per ledger and bill for the period 28.10.2007 to 28.11.2007 were Rs. 1,13,648.00 so in the PD report Rs. 114.00 have been waived off. Section 3 dated 06.09.2011 for Rs. 1,13,559.00 including Rs. 25.00 notice charges was issued. Rs. 68,200.00 plus collection charges Rs. 6,800.00 has since been recovered through Collector vide receipt no. 040623 dated 30.03.2016 so it appears that RC against the amount of Section 3 had also been issued.
6. The petitioner in his rejoinder dated 06.06.2016 has claimed to have deposited Rs. 1,69,200.00 against the dues up to the reading 30541 and has claimed that the excess amount paid by him be got refunded to him. Scrutiny of the record shows that Rs. 83,200.00 deposited by him from 23.02.2005 to 25.04.2007 were against the dues outstanding against him. In the PD order, the balance dues are of Rs. 1,09,731.00 are shown as on 28.10.2007. Including charges for balance units and other charges, the total dues payable by him till date of temporary disconnection were Rs. 1,13,534.00

whereas meter reading between 28.02.2006 and 28.11.2007 show an average consumption of 600-700 units per month. Section 3 for this amount was accordingly issued. Against these dues, Rs. 75,000.00 (Rs. 68,200.00 electricity charges + 6,800 collection charges) were recovered by the Collector vide receipt no. 40623 dated 30.03.2016 and Rs. 11,000.00 petitioner has claimed to have deposited vide receipt no. 247202 dated 18.05.2016. Therefore, against the outstanding dues of Rs. 1,13,534.00, he has paid only Rs. 79,200.00 (Rs. 68,200 + Rs. 11,000). Here it is pertinent to mention that while he is contesting that he is not liable to pay any dues after the reading 30541 as his connection was disconnected under the directions of Raid team he has paid Rs. 11,000.00 on 18.05.2016 while proceedings in his appeal dated 25.04.2016 were in progress before Ombudsman so his claim that his connection was disconnected at the reading 30541 is not established.

7. A perusal of the documents and details of bills and payments made against them as mentioned above suggests that apart from the two lines in the format of inspection report regarding disconnection there is no evidence filed for disconnection in pursuance of checking report. However, a perusal of the bill for the period 28.02.2007 to 28.03.2007 which is for NR and receipt no. 073286/37 dated 29.03.2007 for Rs. 20,000.00 of which Rs. 19,800.00 is against outstanding dues and subsequent bills for the period 28.03.2007 to 28.04.2007 which is for metered units indicates that the connection would have been disconnected sometime after 28.02.2007 for nonpayment and must have been reconnected on or after 29.03.2007 on depositing dues as aforesaid. It is therefore clear that the connection remained operative (except for the short period as above) till it was disconnected temporarily on 30.10.2007 and permanently on 22.12.2007 which is corroborated with the bill issued and it is clear that he has consumed 13359 (43900 ó 30541) units after the checking till 30.10.2007 so he is liable to pay the amount as shown in PD OM.
8. As claimed by the petitioner, Section 56 (2) of the the Electricity Act, 2003 is not attracted as is clear from the following case law of Honøble High Court of Delhi in W.P. (C) 8647/2007 in Jingle Bell Amusement Park P. Ltd. vs North Delhi Power Ltd. in this regard is clear as will be evident from below:

“5. The question as to when the electricity charges become first due is no longer res integra. The Single Judge of this Court in H.D. Shourie Vs. Municipal Corporation of

Delhi 32 (1987) DLT 73 held that the electricity charges become due and the limitation for recovery thereof commences only when the bill therefore has been raised. The Division Bench in appeal reported as MCD (DESU) Vs. H.D. Shourie 53 (1993) DLT 1 reiterated that liability to pay accrues when liability is quantified and bill is raised.”

9. Petitioner's allegation about misutilization of his meter after alleged disconnection in pursuance of directions of checking report from reading 30541 to 43900 is not established in view of the bills mentioned above as also the fact that the meter was installed at the premises of Shri Rajendra Singh on 15.01.2008 at reading 43900. The petitioner is liable to pay the dues claimed by the respondent as per PD OM for which RC has also been issued. The petition is dismissed. Forum order is upheld.
10. Respondent are directed to take appropriate action against officer/officials responsible for delay in finalizing permanent disconnection as well as action pursuant to the raid team report.

Dated: 25.07.2016

(Vibha Puri Das)
Ombudsman