

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

M/s Fit Box Gym
Prop. Pinaki Sen
Yash Plaza, 525/526,
Vasant Vihar, Kanwali Road,
Dehradun, Uttarakhand

Vs

The Executive Engineer,
Electricity Distribution Division (South),
Uttarakhand Power Corporation Ltd.
18, EC Road, Dehradun, Uttarakhand.

Representation No. 19/2016

Order

Aggrieved by the noncompliance of the order dated 26.05.2016 of the Consumer Grievance Redressal Forum, Garhwal zone (hereinafter referred to as Forum) in complaint no. 221/2015, the petitioner, M/s Fit Box Gym has filed this petition before the Ombudsman.

2. The petitioner has maintained that while he deposited the connection charges of 27,500.00 on 05.01.2016 after sanction of the electricity load to him, the connection was not released to him in one month as laid down in the Regulations. Petitioner has alleged that while opposite party made unauthorized demands to him, the concerned division through their letter dated 04.03.2016, asked the owner of the complex, Yash Plaza for enhancing the capacity of the installed transformer so as to enable release of connection to M/s Fit Box Gym. Owner of the complex refused to do so as she had already got the infrastructure created under one time deposit scheme and necessary electrification of the building complex had been done by her. The Forum heard the parties and directed the respondent to release connection from the infrastructure in the complex after strengthening it as per Regulation of the Uttarakhand Electricity Regulatory Commission (Release of New LT Connection Enhancement and Reduction of Load), Regulations, 2013 within one month. Since the respondent did not comply with the Forum's orders, the petitioner again approached the Forum on

04.07.2016, and then, on notice from the Forum, respondent have given the connection to the petitioner on 08.07.2016 from the nearby LT mains, outside the complex. Petitioner maintains that this is not compliance of the order of the Forum and the UPCL is required to provide the connection from the infrastructure duly strengthened/improved within the complex as per relevant provisions of Regulation and not from L.T. mains outside the complex. Petitioner has sought the relief of compliance of the order of the Forum and compensation as well as payment of interest on funds deployed for installation of machinery which has been unproductive because of non release of electricity connection. He has also requested that this compensation be recovered from the salary of the Executive Engineer.

3. Forum in their order have quoted extensively from UERC (Release of New LT Connection Enhancement and Reduction of Load), Regulations, 2013 and have directed that within a complex, respondent cannot ask the builder or any applicant to enhance the capacity of the transformer or strengthen infrastructure or recover any money from either of the two for the same after the line and transformer have been taken over by the UPCL. Accordingly Forum ordered that applied connection for 25 KW load may be released within 30 days by strengthening the established infrastructure.
4. While Forum order have placed reliance on regulation 7 (1) to 7 (4) and 5 (10) of the LT regulations 2013, respondent have based their contention on the provisions of regulation 7 (1) of the same. It is true that Regulation 7 (1) casts the responsibility of creating required distribution network within such complex from the installed distribution transformer onwards on the developer/builder who have constructed such complex. It is also clear that individual applicant seeking connection in such complex is required to pay service line charges and initial security deposit only as per table given in Regulation 5 (10). Forum in their order have held that under provisions of Regulation 7 (2) builder/developer has constructed infrastructure as per normative load; subsequently each applicant is required to pay charges as per Regulation 7 (3). Accordingly Forum have concluded that once the transformer and constructed line have been taken over, applicant or builder/developer cannot be required to contribute to enhancement of capacity of transformer or strengthening infrastructure since after the electrification of the complex and as per provisions of LT Regulations, 2013 this responsibility devolves on the respondent. Accordingly Forum have directed the

respondent to release the applied for 25 KW connection after strengthening the infrastructure, within 30 days.

5. Respondent in their written statement have disputed the order of the Forum and held that the said directions of the learned Forum are not correct. The improvement in the infrastructure within the complex is the entire responsibility of the developer/builder, even if the electrification in the complex had been done on the basis of the normative load determined by the licensee under Regulation 7(3). The said responsibility cannot be shifted on the licensee. It is note worthy that respondent have also mentioned in their written statement that as the installed 100 KVA transformer in the complex has already been loaded to 70 KW (82.35 KVA) the load on this transformer would be 117.6 KVA if 25 KW connection is also released from this transformer so the SDO and Executive Engineer intimated the petitioner that since clear cut guidelines are not available for new connection in the complex in this situation higher authorities were requested vide letter dated 04.03.2016 to give the said guidelines and only thereafter it may be possible to release the connection.
6. They have further submitted that it was wrong to allege that the Executive Engineer has exploited the petitioner due to which the petitioner has suffered monetary loss and the petitioner is entitled to Rs. 30,000.00 towards rent of the machines taken on rent, for period January 2016 to July 2016, with interest and loss and damages to the tune of Rs. 5,00,000.00. It was also wrong to ask that the said amount be paid out of the salary of the Executive Engineer.
7. Arguments on behalf of both parties have been heard and the record available on file has been carefully examined. While petitioner has been released connection from the LT mains, the Forum order has not been complied with in spirit. The concept of a complex can be sustained only if electricity connections are given from within the complex otherwise there may not be any difference between an applicant consumer within a complex and an applicant consumer anywhere outside. The provisions in the regulations are clear about the liability of the consumer, liability of the builder/developer and the residual liability of the Licensee in a complex. Since based on the normative load the requirements of electrification of complex have been completed by the builder/developer and the applicant has paid Rs. 27,500.00 demanded from him for release of his connection on 05.01.2016, they have both completed the requirements prescribed for them under the regulations 5 (10) and 7 (1)

to (3). While on the one hand the respondents have submitted that as clear instructions regarding carrying out the work of increasing capacity of the installed 100 KVA transformer in the situation of overloading after release of 25 KW load to the petitioner were not available, they have sought instructions of higher authorities vide their letter dated 04.03.2016, at the same time, without waiting for the instructions from higher authorities, they have asked the developer to get capacity of the existing transformer enhanced to enable the release of 25 KW load to the petitioner vide their letter of the same date i.e. 04.03.2016. Further, as mentioned in Forum's order, they (respondents) have asked the petitioner to deposit Rs. 7,50,000.00 towards the cost of increasing capacity of the existing transformer, without waiting for the instructions of the higher authorities. Having issued a demand of Rs. 27,500.00 to the petitioner in accordance with Table 2 of sub regulation 5 (10) which was duly paid by the petitioner on 05.01.2016, they further proceeded to call upon the petitioner to deposit Rs. 7,50,000.00 as reflected above, which indicates that the respondents could not interpret/understand the relevant regulations, which caused delay in release of connections as also grievance to the petitioner, as nothing other than provided for in the relevant table of 5 (10), can be charged from the applicant (petitioner) in terms of sub regulation 6.

8. As regards petitioner's allegation for harassment/illegal gratification by the Executive Engineer, no documentary evidence have been adduced by the petitioner, to establish his allegations and the same are therefore, not sustained for want of evidence. Respondent have, in their written statement, stated that the electrification of the said complex was done as per regulations and after calculating load of the said complex. It is admitted by both parties that the electrification of the complex has been completed as per provisions of regulations. While respondent have claimed that the improvement of the infrastructure within the complex is the entire responsibility of the developer/builder, even if the electrification had been done on the basis of the normative load determined by the Licensee under relevant Regulation 7 (3), they have failed to present the specific provision in the regulation by which this is mandated. Further sub regulation 7 (3) provides for payment of service line charges and initial security as per tables given in regulation 5 (10) by the individual applicant seeking connections and there is no mention regarding the developer/builder, so this regulation 7 (3) has been misquoted by the respondents.

9. As explained in the para no. 4 and 7 above, the developer/builder had already paid for the infrastructure as per demand of the respondent and as required under the Regulation and the petitioner had also paid the charges as per respondent's demand, neither of them can be asked to bear the cost of enhancement of infrastructure at a subsequent date as nothing has been provided in the Regulations for charging the cost of infrastructure at a later date. Since it is an admitted fact that the infrastructure created by the developer/builder including HT/LT lines and transformer in the complex was taken over by the respondents in 2013 and they have been maintaining it since then and have also given 3 connections from this system, so by virtue of aforesaid it belongs to them (the Licensee respondents) Hence it is clear that the residual responsibility for enhancement of capacity of transformer and/or/network in a complex, post electrification, rests with the Licensee.
10. Forum's order in substance relies on provisions of Regulations. However Forum have given 30 days for compliance of their order. The time limit allowed under sub regulation 5 (13) reads as follows:

“(13) If a new connection is required in which the licensee is required to extend its distribution mains or lay new distribution mains or commission a new substation then the licensee shall inform such Applicant the time required to give the supply and the same shall not exceed:

(a) 60 days if only extension of distribution mains is required.

(b) 90 days if commissioning a new substation is also required.

(c) 180 days if commissioning of new 33/11 kV substation is required.”

Forum order is therefore upheld with this modification that time allowed to Licensee shall be as per provisions of Regulation 5 (13) quoted above.

11. The respondents are hereby directed to shift the connection of the petitioner from the existing LT mains outside the complex to the infrastructure of the complex after improving the infrastructure and enhancing capacity of the transformer within the time frame as prescribed in the aforesaid sub regulation 5 (13). The petition is allowed. There is no order as to costs.

Dated: 11.11.2016

(Vibha Puri Das)
Ombudsman