

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

M/s Himalaya Plastic Product
Represented by Shri Puneet Pant
S/o Shri Harish Chandra Pant
Pipalsana, P.O. Hempur (Haldua)
Ramnagar, Distt. Nainital Uttarakhand

Vs

The Executive Engineer,
Electricity Distribution Division,
Uttarakhand Power Corporation Ltd.
Ramnagar, Distt. Nainital, Uttarakhand.

Representation No. 16/2016

Order

The petitioner, M/s Himalaya Plastic Product represented by Shri Puneet Pant has filed this petition against the order dated 16.06.2016 of the Consumer Grievance Redressal Forum, Kumaon zone (hereinafter referred to as Forum) in complaint no. 18/2016 of 28.05.2016.

2. The petitioner has stated that he applied for electricity connection in May 2013, was asked to deposit Rs. 1,90,000.00 towards cost of equipments, HT cable etc. on 21.10.2013 and the petitioner deposited the said amount on 22.10.2013. Thereafter petitioner was requested by the respondent on 07.10.2014 to deposit sum of Rs. 1,15,000.00 towards initial security. This amount was deposited by the petitioner on 28.10.2014. Petitioner has further stated that the electricity connection was sanctioned to the petitioner and electricity meter installed in the factory on 05.12.2014 while electricity supply was started on 04.08.2015. The respondent however issued electricity bill to the petitioner for the period 05.12.2014 to 04.08.2015 for sum of Rs. 8,19,051.00 which as per petitioner is illegal, without any basis, as such is not payable by the petitioner because of which the petitioner did not deposit this amount. The electricity connection of the petitioner was disconnected by the respondent on 30.10.2015. While the petitioner filed a complaint with the Forum, the same was dismissed on 16.06.2016 because of which he has had to file this representation.

Relief prayed for before the Forum included: The bills sent to the petitioner are baseless since the MRI has established clearly that there was no consumption of electricity prior to 04.08.2015; petitioner is liable to pay for consumption of electricity worth Rs. 2,25,000.00. After adjustment of security deposit of Rs. 1,15,000.00 he is liable to pay Rs. 1,10,000.00; he has also claimed that he has been put to loss of roughly Rs. 3,00,000.00 on account of delay in release of electricity connection and he is also entitled to damages for the illegal action as well as for the harassment caused to him.

3. Forum in their order dated 16.06.2016 have recorded the finding that while both parties are agreed that meter was installed in the premises of the petitioner on 05.12.2014, the same was energized on 04.08.2015. They have also recorded that the statement of petitioner that the connection was not released even while the meter was installed because of lack of completion of works related to the connection, is completely false. Forum have recorded that all formalities and work related to release of connection were completed 100% by 30.04.2014. Opposite party have submitted MB in support of their statement where on paper no. 13/5 the measurement of the work was done on 03.04.2014 (it is obvious that one of these 2 dates namely 30.04.2014 or 03.04.2014 is incorrect, since the MB could have been done only after the completion of line works. During arguments before the Ombudsman it was conceded by respondent that the date of MB was actually 30.04.2014 and not 03.04.2014 as mentioned in the above mentioned paper) Forum have therefore held that petitioner's argument that the work was not completed even on 05.12.2014 when the meter was installed is not reasonable. Forum order has further pointed out that it was the petitioner himself who was not ready to take the connection and it is on the request of the petitioner that the connection was not energized prior to 04.08.2015 as is evident from paper no. 06/2 filed by opposite party which is a letter from the petitioner dated 11.06.25015 requesting that the electricity connection may be stopped जिसमें परिवादी द्वारा अनुरोध किया गया है कि विद्युत कनेक्शन को कुछ समय के लिए रोक दिया जाए क्योंकि कुछ तकनीकी खराबी होने की वजह से परिवादी कनेक्शन जुड़वाने में असमर्थ है।
4. As far as bills raised in November 2015 even after the connection had been permanently disconnected Forum have recorded that opposite parties have conceded this to be a mistake but dues have been computed only up to the date of PD. Finally

the Forum have ordered that as per para 8 of UERC (Release of New HT and EHT Connections Enhancement and Reduction of loads) Regulations, 2008 petitioner is liable to pay fixed/demand or any other charges as per prevailing tariff and the orders of opposite party for recovery of dues for the period 05.12.2014 to 04.08.2015 is in order.

5. Respondent in their written statement while pointing out many discrepancies in the statement of the petitioner and the facts, have concurred that the meter was installed on 05.12.2014 after sanction of electricity connection. While officials of the respondent went to install the meter at the premises of the petitioner on earlier dates also, but the petitioner repeatedly stated about some technical problems in the installations and requested respondent not to give connection and that he will give necessary letter about it in the department as soon as his problems are over. Since department could not delay further, they installed the meter on 05.12.2014 after which again petitioner requested orally not to energize it till his problem was solved. Respondent have also said that the allegation against the respondent in the replication filed by petitioner that the respondent did not energize the connection due to non availability of the essential material and that during this period of 6 months there came moisture in the machines so to avoid any accident the petitioner asked the department vide letter dated 11.06.2015 to energize the connection after sometime, when he will inform the department. Respondent have therefore stated that the allegations of the petitioner are false, the bill for Rs. 8,19,051.00 is legitimate, payable by the petitioner and it is for nonpayment of dues that his connection was disconnected on 30.10.2015. Respondent have further stated that petitioner is not entitled to any relief and the representation is liable to be dismissed with costs.
6. In reply to his grounds of appeal the respondent have further rebutted petitioner's argument that he is not liable to pay electricity charges during the period the connection remained un-energized. Since the connection stood released on 05.12.2014 the petitioner has been charged Minimum Guarantee Charges for the period 05.12.2014 to 04.08.2015. Respondent have further brought attention to Forum order in which they highlighted petitioner letter dated 11.06.2015 which specifically stated that the petitioner was not in a position to get the connection energized and there are no further requests from the petitioner to energize the connection. Respondent have also sought attention on the Forum appreciating that before installation of the meter

the entire work to be done by the respondent had been completed but the petitioner was not in a position to take electricity till June 2015 and as such the petitioner is liable for delay.

7. Petitioner has sought relief of setting aside the order of the Forum on the grounds that section 43 (1) of the Electricity Act, 2003 which mandates electricity connection within one month of application, has been violated, penalty for which has been provided as Rs. 1,000.00 per day.
8. The documents filed by both parties and available on record have been perused and arguments preferred during hearing have been heard. It is evident that respondent UPCL got connection charges deposited on 22.10.2013, that they demanded security from the petitioner on 07.10.2014 and installed the meter on 05.12.2014 even while the line work was completed and MB done by 30.04.2014. Respondent's claim that this was done in response to oral request from petitioner is buttressed only by the letter dated 11.06.2015 from the petitioner requesting that energization of his connection be withheld till he informs the department. No other evidence or reason has been adduced on record for the connection to be held back beyond the timelines laid down in the Regulations.
9. The department issued a bill on 01.07.2015 for the period 01.06.2015 to 30.06.2015 amounting to Rs. 4,63,646.08 which includes arrears Rs. 3,89,206.00, which is a zero consumption bill and inclusion of arrears in this bill suggests that billing might have started earlier than 01.06.2015 sometime after installation of meter on 05.12.2014. A bill dated 02.09.2015 for the period 01.08.2015 to 31.08.2015 has been issued for metered consumption of 390 KVAH for gross amount of Rs. 6,07,007.98 which includes arrears of Rs. 5,34,091.00. The previous reading on 01.08.2015 shown in this bill is the same as that recorded on the sealing certificate dated 05.12.2014 which suggests that from 05.12.2014 till 01.08.2015 there has been no consumption (this date was given as 04.08.2015 by both the parties) which is held to be the date of energization of the line. A bill dated 02.12.2015 for the period 01.11.2015 to 30.11.2015 has also been issued for zero consumption gross amount of this bill is Rs. 8,16,557.33 including arrear of Rs. 7,46,112.00. Current amount in this bill is Rs. 68,445.33 as the connection was permanently disconnected on 30.10.2015 zero consumption of this bill also confirms the same and the respondent have admitted that

this bill has been inadvertently issued. The total dues payable by the petitioner are Rs. 8,16,579.00 for which demand notice under section 3 has been issued on 18.12.2015. From the above billing it is therefore clear that there is no consumption of electricity since there is no power available to the petitioner before 04.08.2015. The only period during which power had been available to the petitioner is from 04.08.2015 to 30.10.2015, when the connection was permanently disconnected.

10. The record indicates that an application has been filed by petitioner on 14.05.2013 with a request that since the works for transformer will be completed by him by 30.05.2013, his electricity connection should be released before that date. No other application or letter of the applicant or agreement executed between applicant and respondent (apart from the letter of 11.06.2015) is available on record. It is therefore not clearly established when applicant applied for load, when it was sanctioned, when the estimate for line was sanctioned, when the agreement was executed and when line order was issued. Forum have held that petitioner seems liable for delay in energization of connection after installation of meter. Be that as it may. But for want of these documents it is not clear whether Sub Regulation 5 (1) to 5 (11) were complied with by the respondent in giving the connection. Hence respondent's entitlement to impose bills as per Sub Regulation 8 of UERC (Release of New HT & EHT Connections, Enhancement and Reduction of Loads) Regulation, 2008 is subject to finding. In the absence of such correlation, it is also not possible to logically and cogently dispose of the prayer of the petitioner that he be held liable to pay only Rs. 2,25,000.00 for the period 04.08.2015 to 30.10.2015.
11. The Forum have made no mention of the aforesaid documents in their order. It is not clear whether these documents were available to the Forum at the time of the passing of their order. It is also not clearly mentioned in Forum order whether provisions of sub regulation 5 (1) to 5 (11) were complied by respondent while giving the connection. It is therefore considered appropriate in the interest of justice that the case be examined afresh by the Forum as suggested above. The case is accordingly remanded back to the Forum for reexamination and for passing such orders as the Forum deems fit after examination of the aforesaid documents.

Dated: 10.10.2016

(Vibha Puri Das)
Ombudsman