

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

1. Smt. Maheshwari Devi
W/o Late Shri Budhish Chandra
2. Shri Ganesh Prashad
S/o Late Shri Budhish Chandra
3. Shri Vinod Kumar
S/o Late Shri Budhish Chandra
4. Shri Prakash Chandra
S/o Late Shri Budhish Chandra
5. Shri Satish Chandra
S/o Late Shri Budhish Chandra
6. Shri Manoj Kumar
S/o Late Shri Budhish Chandra
7. Shri Alok Kumar
S/o Late Shri Budhish Chandra

R/o Padampur Sukhro, Near Milk Dairy
Kotdwara, Distt. Pauri Garhwal

Vs

Executive Engineer,
Electricity Distribution Division (Rural),
Uttarakhand Power Corporation Ltd.
SIDCUL, Haridwar, Uttarakhand

Representation No. 25/2017

Order

The petitioners, Smt. Maheshwari Devi and others have filed this representation against the order dated 28.06.2017 of the Consumer Grievance Redressal Forum, Garhwal zone (hereinafter referred to as Forum).

2. Petitioners allege that while Late Shri Budhish Chandra had never sold or rented out his land to any party and nor had he entered into any agreement in this regard, however, the SDO concerned, under the influence of the political presence of Shri Mukesh Mohan Joshi gave an illegal connection no. 62277928 which is contrary to law and constitutes violation of Regulations. Petitioners allege that despite a stay by

the Court (Revenue Court interim order under section 229 B), the SDO gave an illegal connection on this land. Petitioners have given details of efforts by such persons to get an illegal electricity connection based on fraudulent stamp paper and photocopies against which petitioners filed an FIR, copy of which they have has enclosed. Petitioners have further alleged that the electricity connection given to Shri Mukesh Mohan Joshi is in contravention of Regulations and since this has been done despite petitioners' verbal and written objections, disconnecting his illegal connection is necessary. They have requested that since the Forum have disregarded the objections filed against the connection they have acted unilaterally and have requested that appeal be allowed and illegal connection be terminated.

3. The Forum in their order dated 28.06.2017 have quoted extensively from report of the SDO dated 07.06.2017 and 09.06.2017 according to which third party Shri Mukesh Mohan Joshi submitted a copy of his identity card, 3 times security deposit and an agreement on a stamp paper of Rs. 10.00 as well as affidavit undertaking that he will have no objection to disconnection of his connection, in case of any dispute regarding connection. Accordingly, department gave the connection no. 62277928 on 11.05.2017. It has further been stated that while the said Shri Joshi lives in these premises with his family in a 2 room set, according to records available with UPCL a connection existed in the name of Shri Lalit Mohan Joshi father of Shri Mukesh Mohan Joshi, since 1980-81 which was disconnected in 1997 due to nonpayment of dues. The said dues were paid later. Forum have also indicated that an objection has been filed before them by one Smt. Vidyawati Joshi W/o Late Shri Lalit Mohan Joshi who has informed that land measuring 4 bighas was bought by her husband in 1967 from Late Shri Gabar Singh through ikrarnama (agreement) according to practice prevalent in Bhabar. The said land is in their possession since then. While electricity connection continued from 1981, the same was disconnected due to arrears in 1997. The arrears due were paid in October 2016 and she has maintained that they had continuous possession of the said property along with electricity and water connection since 1980-81. Forum have concluded that since there is a property dispute between the parties and perusal of documents filed also indicate that opposite party Late Shri Lalit Mohan Joshi F/o Shri Mukesh Joshi had electricity connection since long, which was disconnected due to nonpayment of dues, which were paid by the consumer later. The UPCL having given a connection in the name of Shri Mukesh Joshi after getting

three times the security deposit is an action in accordance with provisions of Regulations and accordingly Forum have dismissed the complaint.

4. The respondents in their written statement have claimed that petitioners have no right in the matter as they are not consumers and since Shri Mukesh Mohan Joshi had not been made party in this case allegations against him cannot be adjudicated. They have further stated that since respondent is not expected to judge validity of documents of title, no details of stay order have been given, and all allegations regarding forging of stamp paper etc. are irrelevant as the connection has been given upon payment of 3 times security according to regulation 4 (a) (v) of the UERC Regulations 2013, the representation is liable to be dismissed with costs.
5. The record available on file has been examined and arguments preferred by both parties have been heard. Although any person may also be considered as a consumer as per provisions of sub regulation 2 (g) iii) of UERC (Appointment and Functioning of Ombudsman) Regulations, 2004 which provides:

2 (g) iii) Any person who has suffered injury or whose property has been damaged, and which injury or damage is attributable to a Licensee, or the Electricity Services undertaken by it.

But in the instant case since the case of property dispute is still pending in the Revenue Court it cannot be said for certain that the property on which disputed connection has been given, belongs to the petitioner. The petitioner, therefore, cannot be held to be a consumer in terms of the aforesaid Regulations. Further the Ombudsman has no jurisdiction to interfere with or say anything in the matter of property dispute.

6. In any case even if the petitioners are not considered consumers, they have approached the Ombudsman being aggrieved by the order of the Forum and hence are entitled to being heard. While it is true that another opposite party Shri Mukesh Mohan Joshi whose connection is sought to be disconnected, through this petition, has not been made party in this case, however as clarified by the respondent and held by the Forum in their order, the connection given to Shri Mukesh Mohan Joshi is legal under provisions 4 (a) (v) UERC (Release of LT Connection, Enhancement and Reduction of Loads) Regulations, 2013 which provides as under:

“(v) An Applicant who is not an owner but an occupier of the premises shall alongwith any one of the documents listed at (i) to (iv) above also furnish a no objection certificate from owner of the premises.

Provided that in case the Applicant is unable to submit any of the document listed at (i) to (v) above, then the Applicant shall be charged thrice (except for BPL consumers) the amount of security as per Tables 1 to 4 given in Regulation 5(10). The owner of the premises, if different from the Applicant, shall not be liable for payment of any dues against such connection. “

7. Some statements have been filed before the Forum to indicate long term possession by various parties and also an electricity connection in the name of father of the present connection holder. In the above circumstances the Forum order holding the connection given to Shri Mukesh Joshi on payment of 3 times security as appropriate under the Regulations is correct. There is no need or justification to interfere with the same. Forum order is upheld. Petition is therefore disallowed.

Dated: 18.10.2017

(Vibha Puri Das)
Ombudsman