

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Smt. Beena Shahi
D/o Late Shri Laxman Singh Rawat
Village Vijaypur, Gopiwala,
Anarwala, Distt. Dehradun, Uttarakhand

Vs

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

Representation No. 40/2017

Order

The petitioner, Smt. Beena Shahi has filed this appeal against order dated 16.10.2017 in complaint no. 99/2017 of the Consumer Grievance Redressal Forum, Garhwal zone (hereinafter referred to as Forum). Brief facts of the case as declared by the petitioner indicate that petitioner is owner of 240 Sq Meters plot in Vijaypur, Gopiwala, Tehsil Sadar, Distt. Dehradun, by virtue of registered sale deed dated 09.02.1995 which she had purchased from her former husband (divorced vide judgment dated 31.05.2017) on payment of sale consideration of Rs. 4,000.00. Petitioner alleges that while she obtained an electric connection for the said property, her husband Shri Samsher Shahi already had a connection. Petitioner had filed her application before the Forum for disconnection of the connection in favour of Shri Samsher Singh Shahi, since she had already revoked the license deed in favour of Shri Sachin Shahi S/o Shri Samsher Singh Shahi by virtue of legal notice dated 31.10.2017. She has requested that the said electric connection in the name of Shri Samsher Singh Shahi be disconnected from the appellant property and the connection be also restrained from being transferred to Shri Sachin Shahi or any other person claiming under them. She has alleged that the Forum have erred in dismissing her complaint in contravention of material available on record without appreciating provisions of law and in giving findings against the appellant, and in passing the judgment. She has also claimed, the Forum have not applied their mind in correct perspective.



2. Forum in their order dated 16.10.2017, have explained that on the basis of request for disconnection of connection no. 701-2451094000 sanctioned in the name of Shri Samsher Singh Shahi husband of petitioner Smt. Beena Shahi, and divorced vide decree dated 31.05.2017, respondent UPCL sent their line staff. Shri Samsher Singh Shahi who was present at that time objected to the disconnection and informed that his son and daughter in law reside in the first floor and hence connection should not be disconnected. The process of disconnection could not therefore be completed. Forum also invited third party Shri Samsher Singh Shahi for hearing before the Forum. Shri Samsher Singh Shahi in his deposition has claimed that he sold six biswa of his undivided ancestral property in favour of his wife without any consideration for the purpose of obtaining bank loan to build a house for the family. The said sale deed is a defective document and case no 143/2007 has been filed by his son Shri Sachin against Smt. Beena for declaring the sale deed null and void. Forum have further held that they have no jurisdiction to hear disputes relating to property. The undisputed fact of Shri Sachin Shahi s/o third party Shri Samsher Shahi residing in one part of the property in which Shri Samsher Singh Shahi already has an electricity connection was also mentioned. Forum have quoted the provisions of UERC (The Electricity Supply Code) Regulations, 2007 chapter 4 vide which connection can be disconnected by the electricity department either for nonpayment or on the written application of the consumer. Owner of the property is not entitled to get connection of a possessor of the property or a part of that property disconnected. Since the consumer of that connection, Shri Samsher Singh Shahi has been regularly paying his bills, and has not given any written application for disconnection of his connection, the department has no authority to disconnect the same. Accordingly the Forum have dismissed the complaint.
3. The respondent in their written statement have not admitted, for want of knowledge, all the claims made by the petitioner regarding the property and the sale consideration and the decree of divorce etc. They have held, that as the connection stands in the name of Shri Samsher Singh Shahi, it can be disconnected/transferred at the request of the consumer and not the appellant. Accordingly, respondent have also asserted that the complainant is not a consumer, has no locus standi to file the (petition) before the CGRF and the present complaint is a misuse of the process of the Ld. CGRF. The connection stands in the name of Shri Samsher Singh Shahi. The respondent have also

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asserted that the order of the Forum is correct is as per provisions of Regulations, and it is wrong to allege that the CGRF did not apply their mind in correct perspective.

4. Both parties have been heard and record available on file has been perused. While connection no. which the petitioner has requested to be disconnected has been mentioned as 701-2451094000 by the Forum in their order, it finds no mention in the petition or in subsequent correspondence. During arguments petitioner was requested to inform the connection no. Petitioner has filed an application on 09.02.2018 giving the connection no. which they seek to get disconnected which is the same as mentioned in the order of the Forum. Further, during arguments, petitioner also referred to a news item in a local news paper wherein it was claimed that an amendment had been made to prevent possessors of property from obtaining electricity connection. However a bare perusal of news item clarifies that it pertains to order of the State Information Commissioner which merely reiterates the position existing in the UERC (Release of new LT, Enhancement and Reduction of Loads) Regulations, 2013 that a person who is in possession of a property can, on depositing 3 times the security, obtain a new connection in case he does not have ownership documents. The case at hand is not of a new connection but of disconnecting an existing connection, which was granted long back and is still alive, on the request of a third person, not being the holder of the connection under reference. Respondent in their written statement have stated that the petitioner has no locus standi to file this petition as the complainant is not a consumer and this complaint is a misuse of the process of the Ld. CGRF. Despite this statement, however, respondent did, on the request of the petitioner, send a team to disconnect the connection. The disconnection could not be done because of the objection by the connection holder. Respondent were unable to give adequate justification for their action, in the face of clarity that petitioner does not have a locus standi to get the connection, which is not in her name, disconnected.
5. Despite the above lacunae, as per written arguments dated 09.02.2018 of both parties, it is clear that the holder of connection no. 701-2451094000 is Shri Samsher Singh Shahi. Further, the respondents have confirmed that the only bill outstanding against him is for January 2018 amounting to Rs. 7,007.00 and no other dues are outstanding. He is opposing disconnection of the said connection and therefore department does not have any basis in law to disconnect the said connection. As the Forum have

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observed, Forum do not have any jurisdiction to hear complaints regarding title to property, neither is it appropriate for the Forum or the Ombudsman to comment on the rights of the parties in a civil dispute. As held by the Forum and in accordance with the provisions of UERC (The Electricity Supply Code) Regulations, 2007 chapter 4, a connection can be disconnected only for reasons of nonpayment or at the request of the concerned consumer. It is clear from the above that the petitioner is not the consumer of this connection as the connection is in the name of Shri Samsheer Singh Shahi who has been regularly paying his bills and who is opposed to disconnection. Therefore Forum order dismissing the complaint is in order, and is upheld. Petition is dismissed.

Dated: 12.02.2018


(Vibha Puri Das)
Ombudsman