

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Shri Parasram Joshi
S/o Late Shri Samiram
Joshi Cottage, Dakpatthar Road,
Vikasnagar, Uttarakhand.

Vs

Executive Engineer,
Electricity Distribution Division,
Uttarakhand Power Corporation Ltd.
Vikasnagar, Distt. Dehradun, Uttarakhand

Representation No. 16/2018

Order

Date: - 06.07.2018

The petitioner, Shri Parasram Joshi has filed this petition against the order dated 25.04.2018 of the Consumer Grievance Redressal Forum, Garhwal zone (hereinafter referred to as Forum) in complaint no 235/2017.

2. In brief the case is that the petitioner while he was posted in remote part of the state, prior to the year 2000, and taking advantage of his absence, two poles were installed in the middle of his agricultural land in order to provide electricity to a neighbour whereas a vacant plot of land exists on the other side of the neighbour's house where the connection has been reached and an electricity line passes very close to that vacant plot. Due to this, petitioner has faced many problems including his animals being electrocuted; and he is unable to plant paddy because electric current flows in the fields. He has also not been given any compensation for the loss incurred by him and they have been constantly avoiding shifting the poles in spite of his having obtained a sum of Rs. 41,540.00 from the Vidhayak Nidhi of local MLA Shri Navprabhat for relocating the said two poles. Petitioner has also claimed that while he received no intimation of any date of hearing before the Forum, the Forum was misled by the Executive Engineer into issuing direction that the poles should be erected on the boundary (**Mksy**) of the petitioner's fields. He has also claimed that it is not possible to erect any poles on his boundary because big cement pipes of the irrigation

department are already laid there and this is an arbitrary decision of the Forum in order to give an unjustified benefit to the other person. Accordingly petitioner has requested that Forum order may be set aside, the poles be shifted from his field and he be granted compensation for damage to his property and animals.

3. Forum in their order had indicated that they held hearings on 4 different dates, but petitioner did not attend a single hearing. The report given by the respondent before the Forum indicated that the line shifting was expected to be done along the boundary of the fields of petitioner. The estimate of Rs. 41,540.00 was made on this assumption. However since petitioner is objecting to taking the pole along his boundary Forum have observed that it is not possible for them to insist on the respondent to act in violation of provisions of their estimate and accordingly, Forum came to the conclusion that the petition lacks merit and dismissed the same. However, they gave directions to the opposite party that in the event of the petitioner cooperating with them, the line shifting may be undertaken as per estimates submitted.
4. In their written statement respondent UPCL have confirmed the points of the petitioner's representation that 2 LT poles passed through his fields in village Badamawala, Vikasnagar. To relocate the poles an estimate of Rs. 41,540.00 has been prepared. As per relevant GO orders while 30% of such estimate amount is to be taken from Vidhayak Nidhi, 35% each will be contributed by the State Government and UPCL. For the purpose of shifting of poles respondent have sent a contractor who has reported that no agreement could be reached between the petitioner and the other party regarding ROW. Respondent have further stated that in the joint inspection of the Executive Engineer, SDO and JE, it was found that there are trees on the land identified for the shifting of the poles. Respondent have therefore stated that if the petitioner can provide an alternative route within the estimated amount, the proposed work will be got executed.
5. Both parties have been heard and the record available have been perused. As per the statement of the respondent, 2 points are clear. Firstly that the electricity poles to reach a connection to a third party have been erected in the land of petitioner. Secondly it is also clear that respondent prepared an estimate to relocate the poles and accordingly a sum of Rs. 41,540.00 was received from the Vidhayak Nidhi of the

local MLA in June 2016. For the last 2 years, action has not been taken according to the estimate so as to remove the cause of grievance to the petitioner. Differing reasons have been advanced in the order of the Forum, in the written statement of the respondent before the Ombudsman, and by the petitioner in his representation, before the Ombudsman. While the Forum have observed that complainant is unwilling to accept the alignment defined by the estimate and Forum are helpless to direct respondent UPCL to act against the provisions of their estimate, petitioner has stated that Forum order requiring the poles to be shifted along the boundary (**Mksy**) of his field is an arbitrary decision of the Forum based on respondent's unwarranted obstinacy because along the boundary big cement pipeline of irrigation department has been installed and erection of poles is not possible. Respondent have, in their written statement, stated that while no agreement was possible on the right of way when the contractor had gone to shift the line, however, the route identified in the estimate has trees on it. Respondent have placed the onus of finding the right of way on the petitioner so that they can execute the work within the cost of sanctioned estimate, so that the works can be executed.

6. As mentioned above the poles passing through the land of the petitioner need to be shifted. Estimate had been prepared by respondent UPCL. If presently the estimate and the alignment on the basis of which the estimate had been prepared are not workable (whether on account of disagreement between parties or trees on the land or irrigation pipes on the land) it is the responsibility of the respondent to shift the poles as agreed at the time of preparation of estimate. Respondent have been negligent in not acting expeditiously once the estimate had been approved and the funds for the same had been made available from the Vidhayak Nidhi, 2 years ago. Respondent are therefore directed to execute the said works for shifting the poles, if feasible, as per the estimate and otherwise with necessary addition from their own funds as they stand committed to shift the poles from the land of the petitioner within the cost of the sanctioned estimate and the petitioner now at this stage cannot be asked to bear any extra financial burden, over and above the already sanctioned estimate so that the long pending grievance of the petitioner is redressed. Action taken and compliance may be reported within 30 days of this order. Forum order is set aside. Petition is allowed.

Dated: 06.07.2018

(Vibha Puri Das)
Ombudsman