

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Representation no. 12/2018

1. Smt Sumero
W/o Shri Mamchand,
Valmiki Marg, Lane No. 1,
Turner Road, Clementown,
Dehradun, Uttarakhand.

Representation no. 13/2018

2. Shri Sugan Chand
S/o Shri Raghuvver Singh
Valmiki Marg, Lane No. 1,
Turner Road, Clementown,
Dehradun, Uttarakhand.

Representation no. 14/2018

3. Smt. Surati
W/o Late Shri Pala
Valmiki Marg, Lane No. 1,
Turner Road, Clementown,
Dehradun, Uttarakhand.

Petitioners

Vs

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

Respondent

Order

Date: - 04.07.2018

Three petitions filed by Shri Sugan Chand S/o Raghuvver Singh, Smt Sumero W/o Shri Mamchand and Smt Surati W/o Lt Shri Pala who had filed complaint No 231, 233 and 234/17 respectively before the Consumer Grievance Redressal Forum, Garhwal zone (hereinafter referred to as Forum) and were disposed off by the Forum through a common order dated 17.04.2018 are being taken up together and similarly

disposed off through a common order copy of which may be kept in each file 13/2018, 12/2018 and 14/2018 respectively.

- 2 Aggrieved by the order dated 17.04.2018 of Forum in complaint no 231/2017, 233/2017, 234/2017 petitioners have filed their petition before Ombudsman. Petitioners' case is that they submitted an application (separate applications by each one of them) for new electricity connection to sub division, ISBT Turner Road on 23.02.2018 but the connection has not yet been granted. Complaints were filed before the Forum on 28.02.2018 by Shri Sughan Chand and on 08.03.2018 by Smt. Sumero and Smt. Surati which were registered in Forum as complaint No 231, 233 and 234/17 respectively. They have argued that Forum have rejected their application on the illegal and false ground that there are outstanding dues against their connection. However since they do not have any electricity connection how can they have outstanding dues? Cantonment Board Clement Town have outstanding dues against them. However the Safai karamcharis have had no electricity connection released in their homes in their names. Petitioners have given details of electricity connection no. 5512/75307 being released in favour of Shri Atmaram S/o Late Shri Nanku Ram resident of 95, Coli Camp, Turner Road Zeal, Clement Town, while Rs. 81,501.00 was outstanding. Giving this connection was infringement of UERC (Release of New LT Connection Enhancement and Reduction of Load) Regulations, 2013 (hereinafter referred to as LT Regulations, 2013) sub regulation 5 (7). They have also quoted an objection filed by Mohd. S. S. Ullah, who has claimed ownership of land and objected to release of such connection. This objection has been filed by Cantonment board on 23-03-2018. Petitioners have argued that Saubhagya Yogna is presently under implementation in the State and BPL consumers are entitled to free connections. However, petitioners are not requesting for free connection. Petitioners want a connection on premises in their possession on their expense and opposite parties have no legal right to object to the same. Petitioners have given an affidavit to say that the connection will not be used as owner or to prove ownership and that living without electricity is an inhuman condition which is adversely affecting their daily routine. They have further stated that objections filed by the SDO and the Chief Executive Officer, Cantonment Board are actions punishable under the SC/ST (Prevention Of Atrocities) Act, 1989. Forum should have given relief of providing electricity

connection. Petitioners are entitled to electricity connection on the principle of natural justice and universally acknowledged principles.

3. Forum before passing their order dated 17.04.2018 have received objections filed by Chief Executive Officer, Cantonment Board who was also called for presenting his views as also by a third party S. S. Ullah who has claimed ownership of the land and held that without his NOC, no electricity connection should be released. CEO, Cantonment Board, before the Forum, responded to confirmation given by petitioners through the pay slips which indicate payment of HRA by CEO, cantonment board has alleged the pay slips filed by the petitioners to be fraudulent because none of these employees have been paid house rent allowance and the electricity connection for these residences was released in the name of CEO, Cantonment Board and payment of bills is pending. Having heard all parties, Forum have finally come to the conclusion that a sum of Rs 1,12,463.00 is pending for payment and the connection has been temporarily disconnected on 06.03.2018 for non-payment. There is dispute about ownership of the premises where petitioners are presently residing and a Civil Case has been pending in the Court where the Hon'ble Court has ordered that parties should maintain status quo with respect to possession and construction in any case. (An order of the Civil Court dated 12.04.2018 has been filed by respondent whereby this case has been disallowed as falling under prohibited category of cases under the CPC) Forum have held that they are not entitled to go into ownership issues. However, since dues are outstanding against these premises in respect of the connection which existed in the past, new connection in the name of applicant(s) cannot be released till clearance of the old outstanding dues as per provisions of LT Regulation 2013 Regulation No 5(7). They have therefore dismissed the complaints 231, 233 and 234 of 2017 and directed that opposite party may dispose off the application for new connection in accordance with provisions of above mentioned regulations.
4. Respondent, UPCL in their written statement have agreed with the petitioners' contention that they have submitted their applications for new connection against which connections have not been released till now and also that 21 new connections have been given in respect of letter no. 239 dated 08.02.2018 of CEO, Cantonment Board Clement Town. Regarding the earlier connection having being given while

dues were outstanding respondent have merely filed copies of billing ledger without disputing the averment of the petitioner. Respondent have further accepted that objections have been filed in the office of Executive Engineer, by one Shri S.S. Ullah but the claim and counterclaim of ownership are connected with revenue department and respondent have not made any comment about the same. Respondent have also asserted that they are committed to releasing electricity connection in accordance with rules. They have contested the petitioner's claim that refusal to give electricity connection constitute an offence on the part of the SDO, UPCL and CEO, Cantonment Board under the SC/ST (Prevention of Atrocities) Act, 1989 and agreed 21 new connections have been given on the application of CEO, Cantonment Board. In additional averments, respondent have also asserted that they will release electricity connection as per rules once a no objection certificate has been received from the objectors namely Shri S.S. Ullah, CEO Cantonment Board both of whom have claimed ownership of land on which the said premises are located, and once the outstanding dues have been cleared. Respondent have further averred that CEO, Cantonment Board have, in their letter dated 19.03.2018 addressed to the Forum, claimed that the said quarters where petitioners have requested electricity connection are residential quarters allotted to safai karamchari during their service. Some retired employees have unauthorizedly refused to vacate the quarters in their possession after retirement, and have tried to get electricity connection in their own name so as to continue their unauthorized possession of these quarters. Respondent have further brought to notice that the Case No 80/2018 supposedly pending between Smt. Surati and others before the Hon'ble Civil Judge has been disposed off on 12.04.2018 as informed by the CEO Cantonment Board.

5. Forum have referred to provisions of sub regulation 5 (7) of LT Regulations, 2013 asserting that during the pendency of outstanding dues against the existing connection (which has since been temporarily disconnected on 06.03.2018) no new connection can be released. They have also directed that respondent UPCL may take necessary action for release of connection in accordance with provisions of Regulations.
6. Since respondent in their written statement stated that *“egksn;] vkosndks dks vifRrdrkZvksa ls vukifRr izek.k i= ds mijkUr rFkk iflj ij cdk;k jkf”k tek gksus ds mijkUr fu;kekuqlkj fo|qr la;kstu voeqDr fd;k tk,xkA”*

It is pertinent to focus attention on the following provisions of LT Regulations, 2013 and sections of Electricity Act, 2003 hence Regulations 5 (2), 5 (3), 5 (5), 5 (7) and 5 (9) provide as follows:

“5 (2) The licensee shall inspect and test the Applicant’s installation, as required of him under Rule 47 of IE Rule 1956, in the presence of the Applicant or his representative within 5 days from the date of receipt of the Application form. Testing of installation shall be done as per procedure laid down in Rule 48 of IE Rules 1956 and the inspecting officer shall maintain a record of test results obtained in the form given at Annexure 1.2 as required of him under Rule 47 of IE Rule 1956. The Licensee shall also ascertain the requirement of extension of distribution mains i.e. overhead line and other associated works as per the Regulations.

If required, the licensee shall conduct the route survey and prepare estimate of the works in accordance with the Regulations within 10 days from the date of receipt of the Application form.

(3) If upon inspection, the Licensee finds any defect, like the installation having not been completed or bare ends of conductor or joints having not been properly covered with insulating tape or that the wiring is of such nature that it is dangerous to life /property etc., he shall intimate the same to the Applicant on the spot under proper receipt in the form given at Annexure 1.2.

(5) The Applicant shall get all the defects removed within 15 days and inform the licensee in writing under acknowledgement. In case Applicant fails to remove such defects or fails to inform the licensee about removal of the defects, the Application shall stand lapsed and Applicant will have to apply afresh.

(7) Licensee shall also ascertain whether any dues are outstanding on the premises, and if so, the licensee shall issue a demand note within 5 days from date of receipt of Application form giving full details of such outstanding amount. The Applicant shall be required to deposit outstanding dues within 15 days failing which his Application shall lapse and the Applicant shall be informed accordingly in writing under acknowledgement.”

7. Sub regulation 5 of LT Regulations 2013 provides for processing of an application by the Licensee. In the instant cases applications having been received by the Licensee on the prescribed form Annexure 1, respondent were required to carry out inspection

of the installations of the applicants within 5 days from the date of receipt of applications and to record the test results on prescribed form Annexure 1.2 and if any deficiency in the installations on such inspection were found the same be reported to applicant within 5 days, for removal of such deficiency within next 15 days. Respondent while they have inspected the installations, (date of inspection not mentioned, however, petitioner signatures are dated 23.02.2018 in the case of Shri Sughan Chand, which suggests inspection was carried out on 23.02.2018) as required under rule 47 of Indian Electricity Rules, 1956, did not record any deficiency in the electrical installations in the inspection. As such sub regulation 5 (5) is not applicable in the instant cases.

8. Under sub regulation 5 (7) in case there are any outstanding dues on the premises the Licensee (the respondents) were required to issue demand note for recovery of such outstanding dues from the applicants within 5 days requiring the applicants to deposit outstanding dues within 15 days failing which their applications were liable to lapse.
9. A perusal of record reveals no documentary evidence to indicate that such demand note as required under the above sub regulation 5 (7) was ever issued to the applicants by the respondent. Nor has such been referred by respondent in their written statement.
10. Since no deficiencies in the electrical installations have been pointed out in the inspections carried out by the respondents as required under sub regulation 5 (2) and neither such deficiencies were pointed out to the applicants as required under sub regulation 5 (3) and further no demand note for recovery of outstanding dues as required under sub regulation 5(7) as aforesaid were issued by the respondent to the applicants for recovery of such outstanding dues against the premises, now therefore sub regulation 5 (9) as reproduced below is attracted in the instant cases.

“5 (9) In case Applicant does not receive any deficiency note or demand note for the outstanding dues within 5 days from the date of Application, the load, as per sub-regulation hereinabove, shall be deemed to have been sanctioned and licensee shall not deny grant of the connection on these grounds.”

As discussed above in these cases provisions of sub regulation 5 (9) are applicable and as such the loads applied for as per sub regulation above are deemed to have been

sanctioned and the Licensee (respondents) cannot deny grant of the connections in these cases at this stage.

11. Respondent have submitted that the connections to the applicants shall be released as per rules on submission of NOC from the objectors and payment of outstanding dues on the premises. The conditionality of NOC from the objectors, namely CEO, Cantonment Board and Shri S.S. Ullah, is inconsistent with regulations and cannot be a ground for withholding release of connection. As far as pendency of outstanding dues against the premises and the status of its payment by the applicants is concerned, situation is clarified in Para 10. Above.
12. It is clear from a perusal of LT Regulations, 2013 that electricity connection can be denied to any applicant on:
 - a) non submission of documents listed at (i) to (v) under sub regulation 4 (a),
 - b) in the absence of the above documents, non deposit of three times the security,
 - c) non removal of deficiency in electrical installations as pointed out by the respondent after inspection under sub regulation 5 (2) and 5 (3).
 - d) Nonpayment of outstanding dues within the specified period on receipt of demand note from the respondents as required under sub regulation 5 (7).

The record placed on file by the petitioner and the respondent indicate that after receipt of application forms (Annexure I) from the applicants for sanction of load to them in the premises occupied by them and inspection of their premises by the respondent as required under Rule 47 of Indian Electricity Rules 1956 and recording results of such inspection on prescribed form Annexure 1.2, no further action for sanction/release of load has been taken by the respondent.

13. Section 43 and 44 of the Electricity Act, 2003 make it incumbent on the licensee to release connection, to every applicant, who has filed an application complete in all respects, within 30 days of application, with the exception of extra time allowed by the Regulator where extra works are required as in proviso to section 43; or where acts of God (section 44) like cyclone, floods, storms or other occurrences beyond control, prevent the licensee from giving connection. UERC (The Electricity Supply Code) Regulations, 2007 provides definition of applicant, occupier and premises in sub regulation 1.2 (1) (c), 1.2 (1) (gg) and 1.2.1 (ii) respectively. The petitioners do

not come under the scope of the exceptions of the Act and come within the definitional scope of applicant, occupier and premises under the above mentioned regulations. They are entitled to release of connection within 30 days from the date of submission of application. It is therefore, clear that further processing of the applications for sanction/release of connections to the applicants have been withheld on grounds of objections by third party and on account of outstanding dues on the premises both of which stand as invalid grounds in the light of provisions of law and regulations explicated above.

14. In the light of above analysis it is not available to respondent to withhold grant of connections to applicants in instant case. They are therefore directed to process their pending applications and release connections within 30 days from the date of this order in accordance with proviso to sub regulation 4 (3) (a), which is reproduced below, read with the sub regulation 5 (9) of the aforesaid regulation.

“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.”

15. Forum order is upheld with above modifications. Petitions are allowed. No orders to costs.
16. Respondent are however at liberty to recover their outstanding dues against connection no 14955 temporarily disconnected on 06.03.2018, from the holder of the said connection i.e. CEO, Cantonment Board.

Dated: 04.07.2018

(Vibha Puri Das)
Ombudsman