

**THE ELECTRICITY OMBUDSMAN, UTTARAKHAND**

Shri Rajeshwar  
S/o Shri Harichand  
Village & P.O. Chudiyala  
Mohampur, Pargana and Tehsil Roorkee,  
Distt. Haridwar, Uttarakhand

Vs

The Executive Engineer,  
Electricity Distribution Division  
Uttarakhand Power Corporation Ltd.  
Bhagwanpur, Roorkee,  
Distt. Haridwar, Uttarakhand

Representation No. 01/2018

**Order**

The petitioner, Shri Rajeshwar S/o Shri Harish Chand R/o Village and P.O. Chudiyala Mohampur, Distt. Haridwar has filed this petition aggrieved by the order dated 11.12.2017 of the Consumer Grievance Redressal Forum, Haridwar zone (hereinafter referred to as Forum) in complaint no. 88/2017.

2. The petitioner's case is that he had installed a 5 horse power electricity connection for tubewell boring in 1989 which failed in 2004. Petitioner alleges that in same year UPCL had disconnected the wire and did not allow boring to continue to work as such he agrees that he is liable to pay dues to the department for 15 years from 1989 to 2004 but also claims that he is entitled to Rs. 5,00,000.00 fine imposed on opposite party from which these dues may be deducted. He also finds the order of the Forum directing him to pay of Rs. 2,60,035.00 completely baseless and against all available evidences. He therefore demands that order dated 11.12.2017 be quashed. He has also made unsubstantiated allegation about the Executive Engineer having entered into a conspiracy with judge of the Consumer Forum whereby 50% of the fine of Rs. 5,00,000.00 imposed in the order dated 11.07.2014 was paid in order to obtain the order dated 21.07.2015. The District Consumer Protection Forum, Haridwar had ruled in their order dated 11.07.2014 that there was a deficiency in service on the part of

Electricity Distribution Division (Rural), Roorkee and therefore awarded a fine of Rs. 5,00,000.00 for mental harassment.

3. Forum in their order dated 11.12.2017 have spelt out that the petitioner has requested for the relief of implementation of the order of the District Consumer Protection Forum as also for early release of new connection. Opposite party UPCL in their reply to notice from the Forum informed that they had complied with the order dated 21.07.2015 of the District Consumer Protection Forum. As per the orders of the Protection Forum, the last bill of Rs. 3,50,909.00 has been revised at minimum rates at Rs. 2,60,035.00. Forum have also recorded that during the hearing petitioner did not object to the bill put up by opposite party. Forum accordingly decided that complaint of the petitioner is not maintainable. They held that amended bill of Rs. 2,60,035.00 is payable by petitioner and the complaint was dismissed.
4. In their written statement before the Ombudsman, opposite party UPCL have taken issue with the fact that the complaint of the petitioner is not maintainable before the CGRF and by implication before the Ombudsman since it pertains to implementation of the order of District Consumer Protection Forum. The two entities are required to work in their respective spheres without having any jurisdiction over implementation of orders of the other. Respondent have also given the entire sequence of events of complaint no. 149 of 2014 filed by petitioner Shri Rajeshwar before the District Consumer Protection Forum. This complaint was decided on 11.07.2014. Respondent appealed against this decision and the State Consumer Dispute Redressal Commission allowed the appeal vide their judgment dated 31.03.2015 and the case was remanded to the District Consumer Protection Forum for fresh trial according to law. District Consumer Forum having heard both parties gave their judgment on 21.07.2015 by which the department was directed to prepare a bill for minimum charges prior to 2004 and also at minimum charges from 2004 till disconnection. Respondent have maintained that this complaint before the CGRF was not maintainable according to law and the CGRF illegally took cognizance of the complaint and decided the same vide their judgment dated 11.12.2017. Meanwhile, respondent had already complied with the order dated 21.07.2015 of the District Consumer Protection Forum in case no. 149/2014. In their para wise reply to the petitioner's complaint they have also detailed that if the petitioner was aggrieved with the order of the Consumer Protection Forum, the remedy open to him was to approach the State Consumer Redressal

Commission which he did not do. Instead, after more than 2 years i.e. 10.11.2017 he filed this complaint before the CGRF which is motivated. The revised bill was made by the department on 27.08.2015 and the said bill had not been challenged even before the CGRF, nor has the petitioner filed any petition under section 26 of Consumer Disputes Act, 1986 (Consumer Protection Act, 1986).

5. Both parties have been heard and the record available on file has been perused. The points raised by the respondent regarding separate jurisdiction of District Consumer Protection Forum and the CGRF and the non maintainability of the present petition before the CGRF are not consistent with the provisions of law as per clause 42 (8) of the Electricity Act, 2003. So it does not preclude the CGRF/Ombudsman mechanism to hear the case, even if it has come to them after approaching the alternate Forum. No separate relief has been sought from the CGRF except early release of new connection, details of which have not been provided either to the Forum or in their present appeal. Although the petitioner approached CGRF for implementation of District Consumer Protection Forum order dated 21.07.2015, respondent have submitted before the Forum that they have already complied with the orders of the District Consumer Protection Forum and have already issued a revised bill for Rs. 2,60,035.00. No further action is therefore required to be taken by the respondent and the Forum vide their order dated 11.12.2017 have accordingly disallowed the complaint and have directed the complainant to deposit amount of the bill for Rs. 2,60,035.00 and have thus disposed off the complaint. While it is true that the petitioner has approached Forum for implementation of order dated 21.07.2015 of the District Consumer Protection Forum and the same already stands complied with the issue of revised bill for Rs. 2,60,035.00 for the period 1989 (Date of connection) to 2012 (till temporary disconnection). However, petitioner being a simple farmer, may not be aware of the legalities and the relief if any, admissible to him. It is therefore considered incumbent to proceed in the interest of justice, if the CGRF/Ombudsman protect the interest of the petitioner, of course without causing gratuitous harm of justice to the respondent company. The case has been examined with view, if any legitimate relief, not demanded by the petitioner, is rightfully due to him and if found so, the same may be given.
6. A perusal of the records on file has revealed that the PTW connection was released on 20.02.1989 and was temporarily disconnected by the respondent on 08.01.2012

and was permanently disconnected on 08.05.2014. It has also been observed from the record that the boring of the tubewell had already failed in the year 2004 disabling the petitioner from using electricity for running of his tubewell thereafter, and this failure is a force majeure i.e. beyond his control. Although the respondent disconnected his connection temporarily on 08.01.2012, it would therefore not be justified to charge electricity bills from the petitioner w.e.f. the date of boring failure till its temporary disconnection. The respondent are therefore directed to get the date of boring failure ascertained and revise the bill only for the period from date of release of connection i.e. 20.02.1989 till the date of boring failure and the revised bill may accordingly be issued in modification of the bill of Rs. 2,60,035.00 issued to petitioner earlier. The order of the Forum in complaint no. 88/2017 is therefore modified. Appeal is partly allowed.

Dated: 23.03.2018

(Vibha Puri Das)  
Ombudsman