

## THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Shri Mukesh Kumar  
Singhal Mandi, Kusum Vihar,  
Dehradun, Uttarakhand

Vs

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

Representation No. 20/2019

### **Order**

Date: - 20.06.2019

The petitioner, Shri Mukesh Kumar aggrieved with the order dated 27.11.2018 in complaint no. 124/2018 and order dated 26.04.2019 in misc. complaint no. 11/2018, of the Consumer Grievance Redressal Forum, Garhwal zone (hereinafter referred to as Forum) has filed a detailed representation against the said orders of the Forum. While complaint no. 11/2018 had been filed in Forum for execution of the order of the Forum dated 27.11.2018, in complaint no. 124/2018, however, the representation before Ombudsman while technically against the order dated 26.04.2019 is more substantively against the order dated 27.11.2018.

2. Petitioner has requested for the following reliefs i) to get the bill against connection no. SD15173137710, for the period March 2014 to the current month i.e. 10.05.2019, revised as per check meter installed on the order of Executive Engineer since actual consumption (as directed by Forum) cannot be established with the old meter reading and MRI as it has been used elsewhere illegally and was also tampered and to waive assessment for 6 months as the electricity supply was not available for much of that period because meter had been removed ii) to get the amount of Rs. 10,000.00 deposited and received via disconnection slip/order no. 759 dated 07.03.2014 adjusted in the bills iii) to take note of the fact that illegal disconnection of the meter and keeping it concealed is an offence under section 136 and 138 of Indian Electricity Act and therefore Ombudsman have been requested to direct UPCL to lodge FIR under

those sections against the SDO and other persons responsible for violation of the said clauses iv) and finally petitioner requested for stay on any further disconnection till the disposal of the case as petitioner apprehended that UPCL may disconnect electricity supply to implicate him in false case of theft under section 135 of the Indian Electricity Act, 2003. An interim stay was granted on 16.05.2019 against disconnection of connection till final disposal of stay application which was confirmed till the disposal of the case on 29.05.2019.

3. Petitioner's case in brief is that he had approached the Forum on 30.10.2018 in complaint no. 124/2018 which was decided by the Forum on 27.11.2018. Forum had directed UPCL to revise bill as per actual consumption without saying anything about amount deposited by petitioner on 09.03.2014. In compliance with Forum order EE UPCL directed SDO on 09.12.2018 to install a parallel check meter for verifying actual consumption. When the bill was not revised in line with actual consumption as verified by the check meter petitioner again filed an appeal before the Forum in appeal no. 11/2018 which was decided on 26.04.2019, whereby again the desired relief was not granted. Petitioner has given multiple instances of discrepancy between date of disconnection, amount of dues reported, and submissions made by the OP before the Forum based on which the Forum have passed their order.
4. He has submitted that Forum based their order on the information submitted by OP vide their letter 6507 dated 22.11.2018 as is evident from Forum order dated 27.11.2018. A number of irregularities in the information given in UPCL claims/averments as detailed below, were ignored by Forum. These claims have been countered by petitioner in his plaint and reproduced in following paragraphs:
  - a) The connection was disconnected on 25.10.2018 on dues of Rs. 81,299.00,
  - b) On March 2013 the connection was disconnected on dues of Rs. 10,776.00. At that time meter was IDF.
  - c) Connection was reconnected by the consumer with help of external person. Therefore the IDF meter no. (96268) was replaced with meter no. (40026704).
  - d) The bill stopped generating as the connection was disconnected. The consumer never asked for bill.

- e) On checking of connections which were Temporarily Disconnected (TD) since long found that the connection was connected and Meter no. 40026704 was installed at site.
  - f) Meter sealing 287/47 dated 03.07.2014 was updated and total due of Rs. 82,012.00 was calculated for 44 months.
  - g) At present the connection is disconnected and MRI report is attached.
5. Petitioner has made the following submissions in support of his case (1) subsequent to disconnection on 07.03.2014 petitioner visited UPCL office and gave Rs. 10,000.00 and additional Rs. 200.00 to the Lineman Shri Vinod Kumar against bill amount and disconnection/reconnection charges against which receipt of Rs. 6,000.00 towards bill amount and Rs. 200.00 towards disconnection/reconnection charges was given. (2) At the time of disconnection on 07.03.2014 the meter was not IDF as claimed by UPCL but contrary is that it was in working order. Also no complaint was lodged with the department for defective meter, as is mandatory under sub clause 3.1.4. of Supply Code Regulations, 2007. (3) The respondent also did not follow the relevant regulation regarding IDF and ADF meters. Meter reading as appearing on 03.07.2014 is duly recorded on sealing certificate as 6475 units which suggests that on the said date the meter was not defective. (4) In support of his averment he has submitted a copy of billing history and sealing certificate dated 03.07.2014. The supply was reconnected on 09.03.2014 by UPCL lineman after depositing charges. (5) This exposes the UPCL statement (made before Forum as per order of Forum dated 27.11.2018) that the connection was got reconnected through some external person. If in fact they have found the connection reconnected through some external person unauthorizedly they should have taken action under section 138 of the Act which they did not take. All these falsehoods have been created and manifest by UPCL to divert the question as to why no bill was sent to the petitioner for 44 months. Further, he has claimed that the money deposited has yet not been adjusted. He has submitted the following points in support of his claim to prove that Forum order is based on falsehood contained in UPCL averments.
- a) As per documents the connection was disconnected on 09.03.2014.
  - b) On inspection of temporary disconnected meters in September 2017 found the connection was connected and meter was installed and working properly.

- c) After MRI the connection was permanently disconnected on 25.10.2018 (i.e. PD was carried out).
  - d) As per MRI of meter no. 40026704 reading dated 20.12.2017 is 27132 units and reading dated 01.01.2017 is 13881 units.
  - e) The meter was installed at reading of 1 unit as is evident by the sealing certificate dated 03.07.2014.
  - f) It is clear from Bill no. 475171003000003 that amount of Rs. 10,776.00 was due on 11.02.2014. Then after this date and up to 03.10.2017 revised bill was presented with final reading 21100 whereas final reading as per MRI is 27132.00.
6. He has further submitted the following points which were not considered by the Forum. i) The matter of depositing Rs. 10,000.00 after disconnection on 07.03.2014 against which receipt of Rs. 6,000.00 was only issued, subsequent to which connection was restored on 09.03.2014 by the lineman. ii) Existing meter 996268 was changed on 03.07.2014 claiming it to be IDF whereas the meter was working that time as the display was also readable and reading was also noted on the sealing certificate. iii) After reconnection on 09.03.2014 no bill was received from UPCL even after approaching the authorities they were reluctant to give the bill. After reconnection on 09.03.2014 the supply was again disconnected on 26.09.2017 when meter was also removed without a sealing certificate even the present reading was not entered on the disconnection order also the meter was not sealed before taking it away. The same meter was again connected after around one month. He has corroborated his statement with disconnection slip/order wherein it is explicitly mentioned that the meter was removed. iv) On 25.11.2017 the supply was disconnected and meter was removed. This time also no sealing certificate was given and meter was not sealed. v) Again disconnection was done on 04.01.2018 and meter was removed without any sealing certificate and meter not being properly sealed also the current meter reading was not mentioned on the disconnection slip. It is explicitly mentioned on the disconnection slip that meter has been removed. vi) Again on 25.10.2018 the connection was disconnected and meter removed without any sealing certificate and meter not being properly sealed. Documentary evidence is enclosed (Disconnection slip dated 25.10.2018 Annexure G). vii) He has alleged that the SDO asked for Rs. 50,000.00 for settlement of the entire case. This (as also regarding Rs.

10,000.00 given to the Lineman on 09.03.2014) matter of corruption was also reported to Police on 04.04.2019.

7. He has further maintained that meter can only be removed after permanent disconnection. There is no provision in Regulations of successive PDs. He has further stated that although UPCL had agreed before Forum that meter had been removed on 25.10.2018 but concealed the fact that the meter was also removed on 2 prior occasions. Removal of meters on 3 occasions was illegal and in violation of UERC Supply Code Regulations and other guidelines. He has also stated that repeated removal of meter from the running line and keeping it confined for more than one month on each occasion is an offence under section 136 and 138 of the Act. The sanctity of the meter being kept in respondent's custody without proper sealing cannot be ensured so MRI report cannot be relied upon. He has denied the high consumption at his premises as no gadgets like AC, oil heater etc are installed in his premises. He has alleged that such high energy recorded by the meter which had been removed and kept in the custody of the respondent for a period of about 6 months suggests it has been used illegally apart from being tampered. In respect to his second complaint before the Forum, the OP UPCL have informed vide their letter dated 07.12.2018 that the bill has been revised as per actual consumption whereas vide his letter dated 09.12.2018 the Executive Engineer has directed SDO to install a parallel check meter to assess the actual consumption. The Executive Engineer although taking note of all the established facts that the meter was removed and not properly sealed on many occasions without relying on the tampered meter, has decided to go for a parallel check meter to assess the actual consumption. The petitioner has further stated that no revised bill based on check meter consumption has been given. Since the same check meter has been kept at the premises as the main meter it suggests that the respondent has no doubt about the correct working of the check meter. He has requested that in view of these facts his bills from February 2014 till present be revised on the basis of check meter in addition to the requests listed out in para 2 above.
8. At sl. No. 11 of his petition, he has also pointed out a number of alleged lies and irregularities on the part of the respondent. Finally he has requested revision of his bill from March 2014 to present as per check meter report/check meter consumption because the actual consumption (as directed by the Forum cannot be established with

the old meter reading and MRI as it has been used elsewhere illegally and was also tampered. He has also requested for waiver of electricity charges for about 6 months during the period he was prevented to use electricity due to repeated disconnections with removal of meter. Adjustment of Rs. 10,000.00 deposited on 07.03.2014 has been requested for. He has further requested for action under section 136 and 138 of the Act for illegal removal of the meter including order to UPCL to lodge FIR under the above sections against SDO and other persons responsible for violation of the above mentioned clauses.

9. Forum, in their order dated 27.11.2018, have observed that connection was disconnected on 09.03.2014 for nonpayment of dues. During the course of checking of temporarily disconnected connection in the month of September 2017 the OP found the temporarily disconnected connection running with meter no. 40026704 which was working. After MRI of the meter the OP permanently disconnected the connection on 25.10.2018 and removed the meter from the premises. As per MRI submitted before the Forum the reading on the meter on 20.12.2017 was 27132. Reading in the meter as per MRI on 01.01.2017 was 13881. As per MRI reading the meter was working correctly. As per sealing certificate dated 03.07.2014 the said meter was installed at complainant's premises at initial reading 1. It is clear that at the time of issuing the corrected bill the opening balance against the consumer on 11.02.2014 was Rs. 10,776.00. From 11.02.2014 to 03.10.2017 the revised bill at final reading 21100 was presented before the Forum. As per MRI the final reading of the same meter on 01.11.2018 was 27132. Forum also observed that as per billing history the complainant deposited Rs. 15,000.00 each time on 29.09.2017, 29.11.2017 and 16.03.2018 while the respondent has adjusted only Rs. 15,000.00 deposited on 29.09.2017 in the revised bill. Based on the above facts the Forum was of the view, that revised bill as per actual consumption recorded by meter no. 40026704 be issued from 11.02.2014 after adding the balance outstanding on 11.02.2014 and after adjusting the amounts deposited on 29.09.2017, 29.11.2017 and 16.03.2018 be issued and have accordingly directed the OP to issue revised bill. Forum in their order dated 26.04.2019, while observing that the OP has duly complied with their earlier order dated 27.11.2018 have disposed off the complaint with the direction that the revised bill as per their earlier order dated 27.11.2018 be given to the complainant within a week, if not given earlier.

10. Respondent, in their written statement dated 24.05.2019 have submitted point wise reply to the petition as follows

- i) Connection no. SD15173137710 is sanctioned in the name of Shri Mukesh Kumar on which Rs. 1,13,228.00 are outstanding against the bills. The petitioner has never made any payment against the bill from January 2011. Last bill to be paid in full is on 10.03.2011. Thereafter only part payments have been made as detailed below:

<b>dz0 la0</b>	<b>cdk;k rn~fnukad</b>	<b>Hkqxrku</b>	<b>Fnukad</b>
1	11,030.00	9,000.00	03.12.2012
2	82,012.00	15,000.00	29.09.2017
3	85,212.00	15,000.00	29.11.2017
4	65,652.00	15,000.00	16.03.2018
5	1,05,483.00	10,000.00	12.04.2019

The petitioner has made part payment only after disconnection under section 56 (1) of the Electricity Act, 2003. They have further stated that the petitioner does not come forward to make payment unless supply disconnected. They have quoted the provisions of section 56 (1) of the Act. Respondent have further averred that the supply of the petitioner was disconnected on 07.03.2014 under section 56 (1) of the Act on nonpayment of Rs. 10,776.00 by disconnecting from the pole. They have denied the petitioner's claim that he had deposited Rs. 10,000.00 and Rs. 200.00. They have also denied that it is not mentioned on the disconnection slip no. 759 that Rs. 10,000.00 or Rs. 6000.00 + additional Rs. 200.00 were received by anybody. The disconnection slip is issued only for disconnection and not for receiving any payment. They have also denied that the disconnection slip carries signature of any officer. They have also denied petitioner's claim that against payment of Rs. 10,000.00 receipt of Rs. 6,000.00 was given, he has not adduced any evidence to show that. The petitioner has never filed any complaint regarding defective meter but at the time of disconnection on 07.03.2014 a reading 5910 was appearing in the meter. As per billing history reading on 11.02.2014 was 5817 so consumption of 93 units was recorded during 1 month from reading 5817 to 5910. While the consumption during previous 2 month cycles was 457 units, 322 units and 538

units respectively, the consumer did not report about his meter being defective even if it was in his notice because his meter was not recording the consumption correctly. The meter was replaced on 03.07.2014 by meter no. 40026704 through sealing certificate 287/47 at initial reading 1. The reading in the said meter on 03.10.2017 was 21100. Thus the consumption in 39 months was 21099 units meaning average monthly consumption of 541 units which indicates that the meter was not working correctly for which it was declared IDF (due to being slow). They have denied consumer's allegation that the meter was forcefully and illegally changed on 03.07.2014. The connection was disconnected on 07.03.2014 and after reconnection a final IDF bill was issued and the IDF meter was replaced as per UERC Regulations. Meter being a property of the department, its replacement cannot be illegal, sealing certificate for change of meter was given to the consumer. Respondent have claimed that the disconnected connection was got reconnected by the consumer through some outsider because the department cannot reconnect a disconnected connection without receiving payment. As is evident from the enclosed billing history the disconnection was entered into the system by Shri Vimal Kuliya, JE on 07.03.2014 and after reporting the disconnection to the system the billing stopped and bills under UDC status generated. At that time in the site inspection the connection was found connected and meter was found replaced. After updating the date of change of meter the bill was generated and sent to the consumer. Whatever payments were made by the consumer have duly been acknowledged through receipts and adjusted in the bills. In support of their submission a copy of the ledger has been enclosed.

In reply to the petitioner's allegations that the Forum did not take notice of such points the respondent have submitted that it is wrong and baseless averment of the petitioner because the disconnection slip dated 07.03.2014 do not carry signature of any authority whereby they have allegedly asked the consumer to pay Rs. 15,000.00. Details of the payments made have been appended.

<b>dz0 la0</b>	<b>cdk;k rn~fnukad</b>	<b>Hkqxrku</b>	<b>fnukad</b>
1	11,030.00	9,000.00	03.12.2012

2	82,012.00	15,000.00	29.09.2017
3	85,212.00	15,000.00	29.11.2017
4	65,652.00	15,000.00	16.03.2018
5	1,05,483.00	10,000.00	12.04.2019

They have denied that against payment of Rs. 10,000.00, Rs. 6,000.00 have been acknowledged, there is no evidence for the same.

- ii) Wrong averment by the petitioner because the installed meter no. 946268 (Commet make) was defective so it was replaced and bills were issued treating the reading IDF, the aforesaid meter was replaced by meter no. 40026704 on 03.07.2014. The consumption in the month of 10/2013, 12/2013 and 02/2014 was 538 units, 322 units and 457 units respectively. Where after from the month of April to July due to summer season the consumption ought to be higher. Meter no. 946268 was showing lesser consumption which is established from sealing certificate no. 287/47 dated 03.07.2014 as per which final reading was 6475 and the consumption from 11.02.2014 to 03.07.2014 was (6475-5817) 658 units which is much less than the actual consumption for which reason the meter was replaced.
- iii) After disconnection on 07.03.2014 and billing status in the software being UDC generation of bills were stopped. The petitioner never reported in the department about non receipt of bills after February 2014. In case he had reported the bills would have been issued.
- iv) Connection was disconnected on 26.09.2014 (as per disconnection slip correct date is 26.09.2017) for nonpayment. Regarding petitioner's complaint that the meter was not sealed the respondent have submitted that there is no such provision under section 56 (1) of Electricity Act, 2003. They have denied petitioner's averment that the connection disconnected on 26.09.2017 was reconnected after a month because the petitioner made part payment of Rs. 15,000.00 on 29.09.2017 against his bills and the connection was restored the same day. In support of their submissions the respondent have enclosed a photocopy of the complaint book (in which name of the petitioner appears at sr. no. 15 according to which supply stated to have been restored on 29.09.2017 after installing the meter).

- v) Respondent have also denied the petitioner's averment that supply was disconnected on 25.11.2017 and restored after a month. They have stated that after depositing Rs. 15,000.00 on 29.11.2017 as part payment the supply was restored the same day. A photocopy of complaint register is enclosed in support of their submission (in which petitioner's name appears at sr. no. 5 according to which it is mentioned that connection was reconnected on 29.11.2017).
- vi) As no annexure F has been enclosed by the petitioner so reply can only be given on receipt of the same.
- vii) Connection was disconnected on 25.10.2018 on outstanding dues and was reconnected in compliance to EE's letter 3752 dated 03.12.2018 but no payment was made by the petitioner during this period.
- viii) Allegations are false and baseless.
- ix) Petitioner's averment is false and baseless because PD was never done neither any action for PD was ever taken. Connection was disconnected as per provisions under section 56 (1). On making part payment the supply was reconnected his averment that any tampering with the line and meter was done and meter was kept in respondent's office for more than a month is baseless because the supply was restored the same day after making part payment. At the time of installation the meter was sealed with numbered seal and the same is mentioned in the sealing certificate and the same seal was existing at the meter which was mentioned in the sealing certificate. As regards section 136 and 138 it has been submitted that it applies to the unauthorized persons while UPCL is a Licensee duly authorized.
- x) Bill has been prepared on actual consumption as per MRI report. On orders of EE check meter no. 3866887 was installed on 26.12.2018. At the time of finalization of check meter on 06.02.2019, display was not appearing on existing meter no. 40026704 but as per MRI of the said meter the reading was 27321, copy of MRI and sealing have been enclosed. The consumption recorded by the check meter was 107 units and that by the existing meter was 106 units which indicates that existing meter was working correctly. Hence, the bill is correct; copy of sealing certificates are enclosed.

xi) (a) No payment was made by the consumer on 09.03.2014 against bills so no action was taken for restoration of supply. No action under sub regulation 4.1 of Supply Code 2007. No action for PD was done due to nonpayment of bills for 6 months. Thereafter at the time of site inspection for PD the connection was found reconnected and meter was found changed, in that continuation keeping in view the sealing certificate and reading in the new meter the bill till that date was prepared and sent to the consumer for payment on nonpayment the connection was disconnected on 26.09.2017 on payment of Rs. 15,000.00 on 29.09.2017 the connection was restored. As the petitioner made part payment and got the connection reconnected no action for PD was taken.

(b) Respondent did not take any action for PD on 25.10.2018. Connection was disconnected due to nonpayment. After disconnection on 26.09.2018 (correct date is 26.09.2017 as per disconnection slip) part payment of Rs. 15,000.00 was made on 29.09.2017 and after disconnection on 26.11.2017 on payment of Rs. 15,000.00 on 29.11.2017 the connection was restored. The petitioner's averment that he did not get supply in his house for 6 months is false and baseless.

11. In reply to the further points raised by the petitioner the respondent have submitted that (i) bills from March 2014 to the year 2019 are correct; meter was found working correctly in check meter report, bills have been issued based on meter readings so the consumer be directed to make complete payment. (ii) The petitioner never deposited Rs. 10,000.00 had he deposited the said amount department would have issued the receipt and would have also adjusted the same in the bills. (iii) Connection was disconnected as per provisions of section 56 (1) of electricity Act, 2003. Section 136 and 138 as referred by the petitioner is applicable on unauthorized persons interfering with electrical installation and not on the UPCL being a Licensee. (iv) provisions of 56 (1) have been reproduced. The respondent have thus requested that the stay granted till disposal of the case may kindly be ordered to be applicable only after payment of the complete dues under protest.
12. In his rejoinder petitioner has given a point wise reply to the specific comments made by the respondent UPCL

- a) Petitioner has disputed UPCL claim that disconnection slip does not carry signatures of UPCL's officials as copy of both sides of the slip had already been submitted by him as annexure A of his appeal. The only signature missing was that of the Executive Engineer in the disconnection slip. Petitioner maintains that disconnection of 07.03.2014 was without approval of competent person and hence disconnection was illegal.
- b) Petitioner has further disputed respondent's claim that the meter was defective. Meter was declared defective and changed based on the assumptions of respondent Executive Engineer which are clear from his averments in his written statement. "The consumption for the previous 3 billing cycles were 457, 322, 538 units respectively. It is understood that consumption will increase in the month of April to July. Consumption from 11.02.2014 to 03.07.2014 was 658 units." Petitioner maintains that respondent claim of meter being defective is based only on their assumption that consumption during summer months must be higher and if meter is not reflecting higher consumption it must be defective. This is not the process stipulated in clause 3.1.4 of UERC Supply Code Regulations, 2007.
- c) Petitioner's averment that consumption for comparable period of February to July 2014 is 731, 493 and 406 units respectively which is similar to UPCL calculation for 2014 i.e. 658 units and it exposes the falsity of respondent assumption. Petitioner has attached a sheet giving comparable consumption for the period February 2011 to April 2019 to substantiate his statement.
- d) Petitioner maintains that his connection had been reconnected by UPCL Lineman (on 09.03.2014 after being disconnected on 07.03.2014) and not by an external person as alleged by respondent.
- e) Petitioner has averred that clause 56 (1) is undisputed and no questions has been raised on its provision, however, petitioner is questioning the UPCL action to remove the meter before permanent disconnection has been carried out. He has quoted from the Electricity Supply Code Regulation 1 detailing the process to be followed for disconnection notice giving 15 clear days and disconnection on expiry of the said notice period. In case consumer fails to clear all dues within 6 months of the date of disconnection such connection shall be disconnected permanently. Petitioner has also quoted provisions regarding unauthorized reconnection of such consumers whose supply has been disconnected as per process detailed above. In

such a case action under section 138 of the Act must follow. Petitioner has implied that no such action has been taken by the respondent since they are aware that connection has been reconnected by their authorized representative. As far as date of reconnection being 29.11.2017 for which respondent have submitted copies of complaint register vide annexure 5 to their written statement, petitioner had disputed the veracity of the complaint register and maintained that this is fraudulently created document which carries no dates for receipt of complaint when the complaint was handed over to the lineman and appears to have been filled up by one person and no date has been mentioned against the entries of any consumer other than the petitioner. As such this record is not worth relying on.

- f) Petitioner has claimed that Executive Engineer allegation that the connection was reconnected on 29.11.2017 and the annexure 6 enclosing copy of complaint register are false, manufactured evidence since the complaint register copy carries neither name of substation nor date of complaint in respect of any consumer, only in respect of the consumer alleged to be the petitioner, has the date been mentioned and further petitioner alleges that since handwriting in the complaint register is the same, it appears this has been filled up lately to substantiate the claims made by the Executive Engineer.
- g) Petitioner has also alleged that the meter was removed on 04.01.2018 which is against provisions of disconnection and reconnection in the supply code. Petitioner has also drawn attention to annexure 2 sheet no. 2 filed by Executive Engineer along with his reply in which he clearly states that the connection was disconnected on 04.01.2018 and reconnected on 15.03.2018 which substantiates petitioner allegation that his supply remained disconnected for around 2 months. Petitioner has also pointed to the lacunae of signatures of Executive Engineer not been appended to the disconnection order making the same illegal.
- h) Again petitioner has maintained that his meter was removed on 25.10.2018 which is against the provisions of disconnection and reconnection contained in the Supply Code. Again the meter was reconnected after one and half months on 26.12.2018. The payment had not been made in full because the bill had not been corrected as per UERC Regulations.
- i) Claim and counter claim regarding lineman UPCL being involved in negotiating payment in the Police Station.

- j) Regarding respondent calling his statement wrong and unjustified that his connection had been permanently disconnected and their averment that his connection had never been permanently disconnected, petitioner has stated that his assertion regarding the PD date is based on the Forum order. Petitioner has also drawn attention to the fact that since the meter had been taken away and the meter is not supposed to be removed from the premises without permanent disconnection he assumes that respondent had permanently disconnected his connection. He has further questioned how UPCL can keep the meter with them all this while and install it back on 26.12.2018 on the orders of Executive Engineer. In this case again petitioner has called for action against employees of UPCL under provisions of section 136 and 138 of the Electricity Act, 2003 since his meter has been removed from site multiple times and was in the possession of UPCL persons for more than 6 months in total. He has also claimed that during this period the meter was not only misused but also tampered for reason best known to UPCL officers.
- k) Petitioner has further drawn attention to the fact that Executive Engineer in his letter no. 3752 dated 09.12.2018 (correct date is 03.12.2018) has clearly ordered installation of a check meter to verify actual consumption, but nowhere has it been written that the check meter is being installed for crosschecking the working of the earlier installed meter. He has also claimed that it cannot be a mere coincidence that the display of the disputed meter becomes defective during finalization of check meter. Petitioner's claim is that tampered meter cannot be used to ascertain actual consumption. Actual consumption has to be as per check meter which is now the main meter.
- l) Petitioner has disputed respondent claim that connection was never reconnected and when they reached the site to verify the status they found the connection was reconnected and meter changed and therefore they issued a revised bill for 44 months. Petitioner is unable to believe that Executive Engineer is unaware that the meter has been changed in July 2014 wherein a sealing certificate has also been filled up. Petitioner claims that if meter can be changed without informing the Executive Engineer, the same employees can very well also reconnect a disconnected connection. He claims that the connection was actually reconnected by the lineman of UPCL on 09.03.2014.

13. Another 2 points that the petitioner has brought attention to are that removal of meter itself signifies permanent disconnection and there is no provision of subsequent PDs. As per Supply Code Regulations, 2007 bill cannot be raised after permanent disconnection and if bill is raised Licensee has to pay monetary penalty in accordance with UERC (Standard of Performance) Regulations, 2007. In the instant case the meter was first removed on 26.09.2017. Petitioner has further alleged that the meter no. 40026704 was removed by SDO, UPCL on 25.10.2018 the same meter was reconnected on 26.12.2018 along with check meter no. 386887 on the orders of the Executive Engineer by his letter no. 3752 dated 09.12.2018 (correct date is 03.12.2018). It is therefore clear that the petitioner has averred that the meter has been removed from his premises on 3 dates namely 26.09.2017, 04.01.2018 and 25.10.2018.
14. On behalf of petitioner a request for permitting his wife Smt. Pinky to appear on his behalf since he is a daily wage labourer has been received. Further, a request dated 07.06.2019 has been received to permit Shri Divas Joshi to adduce arguments on his behalf as he is a daily wage labourer and is unable to personally attend. Both parties have been heard and the record has been perused. To enable clarity in the positions taken by both parties they were requested to file written arguments as well. For the sake of brevity the arguments led in the written arguments are not being listed out again. Points pertinent to the case have already been covered in the averments made by both parties listed out in detail above and as also the points raised in the written arguments have been duly considered in passing the following judgment.
15. While Forum have stated in their order dated 27.11.2018 that the connection has been permanently disconnected on 25.10.2018 when meter was removed, it was agreed by both parties in the hearing on 29.05.2019 that the connection was alive. The basic relief that petitioner has requested for is correction of his bills in respect of connection no. SD15173137710 for the period March 2014 to May 2019, as per the check meter; to give him benefit of waiver of assessment for 6 months as electricity supply was not available for most of that period as meter had been removed illegally and its meter reading cannot be established through MRI as the meter has been used elsewhere; and to get credit for Rs. 10,000.00 deposited via disconnection slip/order no. 759 dated 07.03.2014 and adjust the same in his bills. From the record (disconnections slips

dated 26.09.2017, 04.01.2018 and 25.10.2018) as reported above, it is clear that the meter no. 40026704 (which was installed on 03.07.2014 and removed on 06.02.2019) has been removed from petitioner's premises on 26.09.2017, 04.01.2018 and 25.10.2018. These events did not lead to a permanent disconnection and the same meter was reconnected. Subsequently while there is dispute about the date of reconnection it is clear that the meter was removed from site and reinstated after a gap. Respondent have disputed petitioner's averment that meter was tampered and used elsewhere but the averment cannot be dismissed without evidence since the removal of the meter on the above mentioned dates and its subsequent reinstallation is established beyond doubt. In the final analysis the meter no. 40026704 was finally reinstalled along with check meter vide sealing certificate no. 22/523 dated 26.12.2018 along with check meter no. 386887 in compliance to Executive Engineer's letter dated 03.12.2018. This meter (40026704) was finally removed on 06.02.2019 vide sealing certificate no. 29/523 when its display was recorded as defective in the said sealing certificate and the check meter was left at site as main meter.

16. Detailed procedure for P.D. including dismantling of line, removal of meter and its MB, submission of its report to Executive Engineer, preparation of final bill in division has been laid down in UPCL OM no. 033, a copy of which has been submitted by the petitioner with the written arguments dated 12.06.2019. In the instant case meter has been removed 3 times which amounts to multiple PD and reinstalled without sealing and order of Executive Engineer, thus neither the instruction contained in above order, nor the procedure of sub regulation 4.4 (1) of Supply Code, 2007 has been complied with. Moreover provisions of section 136 & 138 of the Electricity Act, 2003 have been violated. While respondent have not only violated departmental orders, Regulations and Act provisions but have also not followed the fair business practices and have dealt with the case, throughout, in lackadaisical manner, which cannot be appreciated.
17. A perusal of the record, specially details of the meter (40026704) which has been illegally removed 3 times and reinstalled, each time without sealing certificate and sealing and unsealing of the meter and which was illegally kept in respondent's custody for such intervening period, during which it was not existing at petitioner's

premises, makes its performance un-reliable, apart from the probability of its having been used somewhere by the respondent. Such being the case, revision of his bills on the basis of the purported consumption by this meter, shall not be justified. Further, respondent's submission that meter no. 946268 was replaced by meter no. 40026704 on 03.07.2014, does not figure in the consumer billing history which shows a meter change only in the bill of 10/2017. Further, the consumer billing history does not indicate any billing after 06/2015 till 08/2017. Meter no. 946268 being declared IDF is not acceptable on the basis that this meter has been recording energy consumption throughout, although its accuracy may be subject to verification through check meter study, which was not done by the respondent. But a meter which has not stopped recording, cannot be declared as IDF.

18. In view of above situation of the case that obtained from 03/2014 till 26.12.2018 (the date of installation of check meter and reinstallation of the meter no. 40026704), it is clear that there was no metering arrangement, either existing continuously or, working accurately at petitioner's premises. Billing for this period to be accurate can only be acceptable as per the check meter installed on 26.12.2018 and which remained installed till 06.02.2019 as check meter where after it was left at site as main meter because the existing meter no. 40026704 was not displaying any reading. Accordingly, it is appropriate and justified if meter which has been removed from site three times without sealing certificate and sealing of the meter, is not relied upon for the purpose of billing. It is directed that petitioner's bill from 03/2014 to 12/2018 be revised on the basis of consumption recorded by the check meter from 26.12.2018 to 06.02.2019, which as per sealing certificate dated 06.02.2019 has been shown as 107 units, on appropriate tariff without LPS and after adjustment of the payments made by the petitioner, within 30 days of date of this order. Bills till 02/2014 need not be interfered with and billing from 12/2018 and onwards may continue on the basis of metered consumption by the presently existing meter. Stay granted on 29.05.2019 against disconnection is hereby extended till the expiry of grace period of bill to be issued in accordance with this order, after which respondent are free to take action as per law, if payment is not made. Since this bill will be an accumulated bill for nearly 5 years respondent may consider allowing the facility of payment in installment if, the petitioner requests for the same. Forum orders dated 27.11.2018 and 26.04.2019 are set aside. Petition is partly allowed.

19. As elucidated above the removal of meter from site on at least 3 separate occasions without filling sealing certificate or sealing the meter, reinstalling the same meter at an interval are actions which clearly are in violation of sections 136 and 138 of the Electricity Act, 2003. Senior management of licensee may examine the record to establish culpability and take appropriate action against erring officers/officials.

Dated: 20.06.2019

(Vibha Puri Das)  
Ombudsman