

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Shri Prayas Kirti
Apsara Sarees
Bhotiya Padav, Haldwani,
Distt. Nainital, Uttarakhand.

Vs

Executive Engineer,
Electricity Distribution Division (Urban),
Uttarakhand Power Corporation Ltd.
Tikoniya, Haldwani, Distt. Nainital, Uttarakhand

Representation No. 39/2018

Order

Date: - 25.03.2019

The petitioner, Shri Prayas Kirti on behalf of M/s Apsara Sarees Bhotiya Padav, Haldwani has filed this petition no. 39/2018 aggrieved by the order dated 28.11.2018 of the Consumer Grievance Redressal Forum, Kumaon zone (hereinafter referred to as Forum) in complaint no. 144/2018.

2. Petitioner believes that in the order of the Forum, principle of natural justice had been ignored and the faults of omission and commission of the department have been overlooked while claiming allegiance to the law. Petitioner believes that the dues of another person are being thrust on him and he is being denied justice while his fundamental rights are being violated. Accordingly, he has requested that the order dated 28.11.2018 be set aside and he be granted an electricity connection forthwith.
3. Forum, in their order dated 28.11.2018, have highlighted the petitioner's allegation that the connection to the previous tenant Shri Rahul Verma was a temporary connection and he cannot be given the benefit of a regular connection. Since the department did not give monthly bills to Shri Rahul Verma, as is required in a temporary connection, which is valid only for 3 months, bills were issued at an interval of 2 and five months. Further, Forum have mentioned that petitioner had stated in his rejoinder that while the cheque had reportedly bounced on 04.04.2018,

the connection was disconnected on 31.05.2018. In this connection petitioner has, relying upon the order of Hon'ble High Court of Himanchal Pradesh stated that right to electricity and water are fundamental rights as per Article 21 of the Constitution. However Forum have stated that the conditions in which the above order of the Hon'ble High Court is applicable are different from the present case and based on provisions of Regulation 5.7 of UERC (Release of New LT Connections, Enhancement and Reductions of Loads) Regulations, 2013, a new connection cannot be released as long as dues are payable against those premises. Forum have observed that Licensee have commenced recovery proceedings against the previous tenant Shri Rahul Verma as per law and that petitioner is not entitled to any relief and have therefore dismissed the complaint.

4. Respondent UPCL, in their written statement have denied that the petitioner is entitled to any relief in this case and have only listed out petitioner's allegations without disputing any of them. They have finally only relied on the provisions of UERC (Release of New LT Connections, Enhancement and Reductions of Loads) Regulations, 2013 to state that new connection cannot be granted since there are dues on the premises.
5. No rejoinder has been filed by the petitioner neither did he present himself or through counsel for the arguments fixed on 15.03.2019. The file and all record placed on it including the citation of the order of the Hon'ble High Court of Himanchal Pradesh cited before the Forum have been perused carefully. The observation of the Forum that no new connection can be released while dues are pending against the premises as per provisions of regulation 5.7 of UERC (Release of New LT Connections, Enhancement and Reductions of Loads) Regulations, 2013 is consistent with the provisions of the said Regulation to the extent that Licensee are required to issue a demand note in respect of the outstanding amount before granting a connection. It is not evident from the record that such process has been completed. Forum observation that the order of the Hon'ble High Court of Himanchal Pradesh pertains to a different set of circumstances than applicable in the instant case is factual in the light of provisions of Regulations. In accordance with provisions of Sub Reg. 5(7) Licensee may ensure that demand note is issued if the same has not been done so far and further necessary action on applicant's application for grant and release of connection

may be taken in accordance with the aforesaid Sub. Reg. 5(7). Forum order is upheld with the above modification. Petition is disposed off.

6. In this matter it is obvious however that the Licensee UPCL have been extremely negligent in safeguarding their revenue to the tune of Rs. 2,29,830.00 accumulated against a temporary connection. Senior management of UPCL are advised to take necessary steps to assure recovery of pending amount failing which it should be recovered from dues of concerned staff.

Dated: 25.03.2019

(Vibha Puri Das)
Ombudsman