

**THE ELECTRICITY OMBUDSMAN, UTTARAKHAND**

Shri Banwari Lal  
S/o Late Shri Omi Lal,  
Neal Old Chungi, Haridwar Road  
Rishikesh, Distt. Dehradun, Uttarakhand

Vs

The Executive Engineer,  
Electricity Distribution Division,  
Uttarakhand Power Corporation Ltd.  
Shail Vihar, Rishikesh,  
Distt. Dehradun, Uttarakhand

Representation No. 02/2020

**Order**

**Dated:** 26.02.2020

Being aggrieved with Consumer Grievance Redressal Forum, Garhwal zone (hereinafter referred to as Forum) order dated 16.11.2019 in complaint no. 83/2019 of Shri Lalit S/o Shri Bhopal Singh, Rishikesh, Dehradun against UPCL through Executive Engineer, Electricity Distribution Division, Shail Vihar, Rishikesh, Distt. Dehradun, Shri Banwari Lal (petitioner) has preferred this appeal with the request that connection given in his shop in an unauthorized manner be ordered to be removed.

2. The petitioner has stated that a connection has been given in the shop in an unauthorized manner as a property dispute on the premises is pending in the Civil Court, he has alleged that the Forum has ex-parte decided the complaint without hearing him and as such he has requested that the connection given in the shop under dispute be got disconnected. He has substantiated his averments with documents which are available with his appeal.
3. The Forum after hearing the complainant Shri Lalit and opposite party, the Executive Engineer, after observing that the Forum has nothing to do with the civil case relating to the property dispute pending in the Court, has observed that the connection given to Shri Lalit on depositing 3 times security in accordance with relevant regulations cannot be disconnected on the request of some third party and thus the act of the

opposite party for disconnecting the connection is in violation of the regulations. Having observed as above the Forum has directed the opposite party that connection no. RK653020440954 be restored expeditiously. They have also directed that action against the officials who disconnected the connection in violation of the regulations be also taken.

4. The respondent has submitted a written statement dated 31.01.2020. At the outset, he has raised an objection against filing the appeal in the name of Shri D. P. Singh, Executive Engineer who is neither a licensee nor a service provider and he as Executive Engineer working on behalf of the Licensee. The respondent has also objected to the present petition having been filed by the petitioner on the grounds that since he was not a complainant in the complaint no. 83/2019 of Shri Lalit before the forum which was decided by the Forum on 16.11.2019 and as such he has no right to prefer this petition/representation. While denying the averment of the petitioner the respondent has submitted that connection to Shri Lalit S/o Shri Bhopal Singh was given after depositing 3 times the security in accordance with the Regulations. They have also denied the allegation that the Forum had passed ex-parte orders on the grounds that since Shri Banwari Lal, the petitioner, was not a party in the said complaint so he had no right to be heard by the Forum. Reply to the complaint was filed before the Forum on 14.11.2019 which contained all the facts of the case and has duly been mentioned in Forum order. It is further stated that since there was an order for maintaining status quo passed by Civil Judge, Rishikesh in suit no. 48/2019 so the meter could not be installed in the connection given to Shri Lalit. Since the dispute regarding title of the property is pending in the Civil Court and cannot be decided by the Forum, the connection was given after depositing 3 times security. It is further stated that they are ready to restore the connection to Shri Lalit Kumar as per Forum's directions and as such the petitioner is not entitled to any relief and the representation is liable to be dismissed.
5. The petitioner has submitted a rejoinder dated 10.02.2020 while referring to the pending property dispute case in the Civil Court he has stressed that in view of status quo granted by the Civil Court the connection which was unauthorizedly given Shri Lalit S/o Shri Bhopal Singh be got disconnected in the interest of justice.

6. Records available on file have been perused, relevant regulations have also been consulted and arguments from both parties were heard on 17.02.2020 when both parties were present. The respondent's objection that filing of appeal in the name of Shri D. P. Singh, Executive Engineer is sustainable as the Executive Engineer has taken action in his official capacity and not as an individual person.
7. As regards respondent's objection regarding filing this appeal by Shri Banwari Lal on the grounds that he was not the complainant before the Forum. It is clarified that the position taken by the objectors ignores the provisions of the Regulations notified by the Commission for functioning of the Forum as well as the undersigned. Regulation no. 4 (1) (a) clearly requires the undersigned to receive and Regulation 5 (1) entitles the petitioner to file, this representation, which in turn has been defined in the Regulation 2(o) read with 2(1)(e). The position taken by the objectors contradicts the categorical position stated in these Regulations, which as stated earlier are binding on all concerned, including the undersigned. For reasons given above the preliminary objection raised by respondents is found devoid of merit and is therefore rejected. As such the petition has rightly been admitted and processed for deciding the case on merits.
8. It is clarified that neither the CGRF/Ombudsman nor the UPCL is concerned about the property dispute pending in Civil Court. The CGRF and Ombudsman mechanism is concerned only with the matter related to release of connection to an applicant, who has applied for the same to the concerned UPCL authority. The UPCL being a sole distribution Licensee in the State is duty bound to give a electricity connection to any applicant whether owner or tenant or an occupier of the property as per statutory provision under Section 43 of Electricity Act 2003 and of course in accordance with UERC LT Regulation 2013 applicable in cases such as the instant one and they had accordingly released the connection to the applicant Shri Lalit but had erred in getting the legal connection disconnected on the request/complaint of some third party which has caused grievance to Shri Lalit for the redressal of which he approached to Forum in complaint No. 83/2019. It is also clarified that status-quo granted by the Civil Court, relates to the pending property dispute case and is not a bar in release of electricity connection in the said premises, in accordance with relevant LT Regulations, 2013. The Forum's Order dated 16.11.2019 directing the respondent for

restoration of the connection is fully justified being consistent with aforesaid LT Regulations as such there is no ground to interfere with it and is therefore upheld as it is. The Petition is hereby dismissed.

Dated: 26.02.2020

(Subhash Kumar)  
Ombudsman