

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Shri Girish Chandra Tiwari
Fonshika Estate Nirmala School
Kathgodam, Distt. Nainital
Uttarakhand

Vs

The Executive Engineer,
Electricity Distribution Division,
Uttarakhand Power Corporation Ltd.
Sitarganj, Distt. Udham Singh Nagar,
Uttarakhand

Representation no. 26/2020

Order

Dated: 30.12.2020

Being aggrieved with the order dated 07.10.2020 of Consumer Grievance Redressal Forum, Udham Singh Nagar zone (hereinafter referred to as Forum) in his complaint no. 48/2020-21 before the said Forum against Uttarakhand Power Corporation Ltd. through its Executive Engineer, Electricity Distribution Division, Uttarakhand Power Corporation Ltd. Sitarganj, Distt. Udham Singh Nagar, Shri Girish Chandra Tiwari resident Fonshika Estate Nirmala School, Kathgodam, Distt. Nainital, Uttarakhand has preferred this appeal for disconnection of a connection no. 882H126507669 released to Shri Rajendra Tiwari by the respondent and seeking action against the erring staff.

2. The petitioner Shri Girish Chandra Tiwari has preferred this appeal dated 09.10.2020 wherein he has stated that he has a connection in his residence since 04.11.1987. A connection no. 882H126507669 was illegally released to Shri Rajendra Tiwari on 20.05.2019 by the respondent while his connection no. 882H126031728 was already existing in the said premises on which a sum of Rs. 51,322.00 was outstanding as electricity charges on 20.05.2019. The said connection was illegally released to Shri Rajendra Tiwari after getting a sum of Rs. 4,200.00 deposited against total arrears of Rs. 51,322.00. A complaint was made to the SDO against this illegal connection. The SDO vide his letter dated 28.11.2019 informed that the connection was released due to a mistake by the Lineman. On a question under RTI the balance amount of Rs. 45,757.00 was got deposited on 26.12.2019 through credit card transaction of the

aforesaid Shri Ranjendra Tiwari. On asking for disconnection, the respondent replied that it was not disconnected for want of an explanation from the JE Shri Vinod Joshi. Under reply to RTI the department informed vide letter dated 02.03.2020 that explanation from the Lineman was also awaited. In reply to another RTI question the department informed vide letter dated 16.03.2020 that an explanation from Shri Rajendra Tiwari has also been asked for but the illegal connection was not disconnected. In view of above submissions the petitioner has requested that connection no. 882H126507669 be got disconnected and action against the erring officers/officials be taken.

3. The Forum in their order dated 07.10.2020 in complaint no. 48/2020-21 have observed that a legal point regarding release of connection in a premises where dues were outstanding is involved, while the complainant has submitted that he is the owner of the premises where connection to Shri Rajendra Tiwari has been illegally given in spite of outstanding dues on the premises and thus this illegal connection is liable to be disconnected. The opposite party has submitted that whether a connection is legal or illegal is not within the jurisdiction of the Forum and hence the complaint is not maintainable before them. The Forum having quoted relevant regulation of UERC dated 22.01.2019 wherein the word complaint has been defined, have observed that the subject matter of the instant complaint is not covered in the definition of complaint and hence the Forum has not the powers to declare a connection illegal so this is beyond Forum's jurisdiction and hence they have dismissed the complaint being out of Forum's jurisdiction.
4. The Respondent Executive Engineer has submitted his written statement dated 25.11.2020 along with an affidavit under oath wherein he has submitted that in the premises mentioned in the petition there are two connections existing one on ground floor and the second on first floor as connection no. 882H126031728 and 882H126507669 respectively, connection at the ground floor in the name of Shri Girish Chandra Tiwari is existing since long. Shri Rajendra Tiwari younger brother of Shri Girish Chandra Tiwari has applied for a 4 KW domestic connection in the first floor of the building. Based on lineman and JE's report the connection was released to Shri Rajendra Tiwari. On a complaint by Shri Girish Chandra Tiwari that dues were outstanding on the premises, the SDO concerned disconnected both the connections

and restored them after getting deposited the outstanding dues so both the connections are alive presently.

5. The petitioner has submitted a rejoinder dated 09.12.2020 which is nothing but a repetition or reiteration of what he had already submitted in his petition and has again forcefully submitted that the connection was given illegally with the connivance of department's officials and has yet not been removed on the grounds that explanations from the lineman, JE and Shri Rajendra Tiwari was awaited.
6. Hearing in the case was held on 23.12.2020. The petitioner was represented by his son Hitesh Tiwari and Shri V.B.Joshi SDO appeared on behalf of the respondent. IN addition to oral submissions both parties submitted their written arguments also which having been taken on record.
7. Arguments from both parties were heard, documents available on file have been perused. A connection no. 882H126507669 was released on the first floor of the premises to Shri Rajendra Tiwari on 20.05.2020 when a sum of Rs. 51,322.00 was outstanding against the already existing connection on ground floor no. 882H126031728 in the name of shri Girish Chandra Tiwari, the petitioner, while out of total dues only a sum of Rs. 4,200.00 was got deposited and the connection was released and as such Rs. 45,757.00 were still outstanding at the said premises. The respondent have taken a plea that the connection was released on the report of Lineman and JE concerned who did not report any outstanding dues on the said premises and therefore the connection was released. They have further submitted that explanation of the Lineman and JE was asked for for this lapse and misreporting but their reply is still awaited. They have further reported that both the connections were disconnected and after getting deposited the balance outstanding dues of Rs. 45,757.00 against the already existing connection of Shri Girish Chandra Tiwari, the supply to both the connections was reconnected and both the connections are alive presently.
8. It is clarified that while it is mandatory on the respondent under section 43 of Electricity Act, 2003 as well as relevant LT regulations, 2013 to provide connection to an owner or tenant or an occupier of the property in accordance with the aforesaid statutes on demand and in the event the occupier not being an owner of the property

and his failure to produce NOC from the owner connection can be given after getting 3 times the security deposit but no connection can be given in a premises where electricity dues are outstanding against any existing connection on such a premises where another connection by some other person has been applied for. In the instant case the respondent have violated the regulations by giving the connection when dues were outstanding on the premises, although such dues were cleared subsequently but they are guilty of violation of the regulations. At the same time, Shri Rajendra Tiwari to whom the connection was released, have managed, release of disputed connection despite outstanding dues of the premises with connivance with the respondent's officials and thus he is also equally responsible for violation of relevant regulations. Such being the case the petitioner's request for disconnection of the connection given to Shri Rajendra Tiwari by the department is liable to be acceded to as the connection was duly released by the department in violation of relevant regulations, wherein they overlooked that electricity dues were outstanding on the premises against already existing connection belonging to the petitioner. Since, the respondent have committed a gross mistake and violations of regulations in giving connection in a premises where electricity dues were outstanding. It is therefore directed that connection no. 882H126507669 released to Shri Rajendra Tiwari on 20.05.2019 be disconnected and meter, service line etc. be removed and agreement or declaration executed between the parties, for release of this connection, be terminated as the said connection is held illegal for violation of relevant Regulations. Further the respondents are directed to take necessary administrative action against the Lineman and the Junior Engineer who misreported the facts regarding outstanding dues on the premises within a period of one month from the date of this order. The petition is allowed. Forum order is set aside.

Dated: 30.12.2020

(Subhash Kumar)
Ombudsman