

## THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Shri Narendra Singh  
Sub Inspector  
Assistant Training Center  
Border Security Force,  
Udhampur (J&K)

Vs

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

Representation No. 15/2020

### Order

**Dated:** 21.12.2020

Being aggrieved with Consumer Grievance Redressal Forum, Kumaon zone (hereinafter referred to as Forum) order dated 14.08.2020 in his complaint no. 21/2020 before the said Forum against Uttarakhand Power Corporation Ltd. through its Executive Engineer, Electricity Distribution Division (Rural), Haldwani has preferred an appeal dated 17.08.2020 before the undersigned.

2. The petitioner, Shri Narendra Singh S/o Shri Narayan Singh is a permanent resident of Village Mujholi, P.O. Golu China, Distt. Almora and presently posted as Sub Inspector/MIN at STC, Border Security Force, Udhampur (J&K) has stated as follows in his appeal:
3. A copy of complaint dated 22.06.2020 made before Forum and their order dated 14.08.2020 has been submitted with the appeal as annexure 1 and 2. He has referred para 6 of Forum's aforesaid order on the basis of which the Forum has held the complaint as liable to be dismissed. He has submitted the following points against the aforesaid observation of the Forum.
  - i) The Forum's conclusion that dues are outstanding on the premises are acceptable to both the parties, is wrong. He has further stated that it has

already been clarified by him that the department and its staff had adopted unfair trade practice with him and the penalty has been wrongly imposed, so he has requested that his case should be analyzed as a case of loss or damage as result of unfair trade practice adopted by the trader and their staff and not as a case of theft of electricity as alleged by the department ex parte.

- ii) The Forum have arrived at the conclusion on his complaint and opposite party's reply (enclosure 3). Some information and logic to those were given by him in the complaint reply on which was not asked for from the opposite party which indicates that Forum have pre-decided the judgment.
  - iii) The Forum have passed order relying upon opposite party's submission that it was a case of theft of electricity, but the Forum had not tried to find out the illegal acts of the officers and officials of the department and framed a case of theft of electricity. He has further submitted details of the unconstitutional and works/acts of the opposite party officers and officials, details of which have been given under para 5 of his petition, which is available on file and need not be reiterated here. In the end he has requested that orders on the request made by him under para 15 of his letter dated 22.06.2020 which is the complaint before Forum and is submitted with the appeal as annexure 1 be passed as per law and in the interest of justice.
4. Copy of this appeal has been endorsed to authorities including Hon'ble Union Minister of Power, New Delhi and Hon'ble Chief Minister, Uttarakhand.
  5. The Forum in their order dated 14.08.2020 have observed that the complaint is mainly regarding release of connection. Both parties have accepted that dues are outstanding on the premises at present as per opposite party these dues pertains to the penalty imposed on the complainant on account of theft of electricity but the complainant has denied any theft of electricity at his premises as such the Forum has mentioned that since the cases of theft of electricity are out of their jurisdiction so orders for waiver of outstanding dues cannot be passed by them and further in view of outstanding dues on the premises it will not be in the interest of justice to pass orders for release of permanent/temporary connection in the said premises as such they held that the complaint is liable to be dismissed and have accordingly dismissed the complaint.

6. The respondent Executive Engineer has submitted his written statement dated 05.10.2020 with an affidavit wherein he has submitted that the concerned documents pertaining to appeal no. 15/2020 of Shri Narendra Singh S/o Shri Narayan Singh, Sub Inspector, Border Security Force, Udampur (J&K) has been received in their office on 30.09.2020. On 27.01.2020 Junior Engineer 33/11 KV substation Kamalwa Ganja Shri Vinod Kumar during checking of the premises of Shri Narendra Parihar, under construction of a structure that meter no. UPCL6855 is installed. The electricity was being consumed by bypassing the output and input terminal (a perusal of the checking report which is available on file reveals that checking at the said premises was conducted on 16.01.2020 by SDO accompanied with JE and some other staff).
7. On asking for the documents relating to the meter installed Shri Parihar could not show any document but said that he had given Rs. 8,000.00 to one Shri Maan Singh but no evidence could be adduced. The connection was therefore disconnected by the JE and the meter along with wire was deposited in Sub divisional office, Kamalwa Ganja as an evidence of theft case and the case was lodged in Mukhani, Police Station and assessment notice amounting to Rs. 9,982.00 as an assessment of theft was sent to Shri Parihar but the petitioner through his representative refused to deposit the said assessment amount. The respondent has also submitted that temporary/permanent connection if applied for, after depositing the assessment amount shall be released as per rules. He has further stated that in his complaint no. 21/2020 the Hon'ble Forum has directed that temporary/permanent connection should be released only after depositing the outstanding dues.
8. The petitioner has not submitted a rejoinder but requested that to him the documents submitted looks sufficient to pass orders. Accordingly the date of hearing was fixed for 14.12.2020. While the petitioner did not turn up for arguments on the scheduled date, SDO and JE did appear for arguments on behalf of the respondent. Since the petitioner has already submitted to decide his case on the basis of documents already submitted by him the arguments from representative of the respondent were heard and concluded.
9. The following points needs to be mentioned here.

A) Although in his petition the petitioner has mentioned that no case on the subject matter was pending in any court of law or Forum but later vide his email dated 07.09.2020 he submitted that *“Sir When I submitted affidavit and appeal to your office, no such case was pending in any Court. Accordingly I submitted appeal and affidavit to your office. Now, since my case admitted by District Consumer Forum Nainital as such I inform to your office accordingly.”*

B) Since a case on the same subject matter, as reported by the petitioner himself as above, is pending simultaneously in District Consumer Protection Forum, the instant petition appears to be in violation of UERC relevant Regulations as also provisions of Electricity Act, 2003 as explained hereunder:

a) As per section 42 (6) reproduced below any consumer who is aggrieved by non redressal of his grievance under section 5 may make a representation before the Ombudsman as has been done in the instant case.

*“(6) Any consumer, who is aggrieved by non-redressal of his grievances under sub-section (5), may make a representation for the redressal of his grievance to an authority to be known as Ombudsman to be appointed or designated by the State Commission”*

But the above section has to be read with para 7 (3) of rule 2005 framed by the Govt. of India in exercise of the power confirmed by section 176 of the Act which reads as follows:

*“(3) The Ombudsman shall consider the representations of the consumers consistent with the provisions of the Act, the Rules and Regulations made hereunder or general orders or directions given by the Appropriate Government or the Appropriate Commission in this regard before settling their grievances.”*

b) Further sub regulation 5 (1) and 2.1.2 (1) (o) of UERC (Appointment and Functioning of Ombudsman) Regulations, 2004 which are reproduced below needs to be referred to in the instant case.

*“ 5. Representation to Ombudsman*

*(1) Any complainant who is aggrieved by the order of the Forum or non-redressal of his Grievance within the specified time by the Forum, may himself or through his authorized representative make a representation to the Ombudsman within thirty days from the date of the receipt of the decision of the Forum or within thirty days from the date of the expiry of the period within which the Forum was required to take decision, whichever is earlier.*

*Provided further that the Ombudsman may entertain an appeal after the expiry of the said period of thirty days if the Ombudsman is satisfied that there was sufficient cause for not filing it within this period.”*

*“2.1.2 (1) (o) “Representation” shall mean the representation made to the Ombudsman by or on behalf of a Complainant who is aggrieved by the order of the Forum (including the dismissal order), or non-redressal of his Grievances by the Forum within the specified time and in accordance with the Guidelines.*

*Provided that the representation does not pertain to the same subject matter for which any proceedings before any court, tribunal, arbitrator or any other authority is pending or a decree or award or a final order has already been passed by any competent court, tribunal, arbitrator or authority.”*

12. Since the petitioner has approached two different Forums viz Ombudsman and District Consumer Protection Forum for seeking the redressal of his grievance on the same subject matter simultaneously, his appeal/representation before undersigned has thus become infructuous and legally void, which in view of above provisions in Electricity Act, 2003 and as well as UERC aforesaid regulations, precludes the undersigned to pass any order in the instant case on merits as such the petition is rejected. However the records available on file do not indicate that this fact that his case on the same subject matter is also pending before District Forum, was submitted by the petitioner before the Forum hence Forum’s order need not be interfered with.

Dated: 21.12.2020

(Subhash Kumar)  
Ombudsman