

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

M/s Lardums Electricals Pvt. Ltd
BHEL Ancillary Estate,
Ranipur, Haridwar, Uttarakhand

Vs

1. Chief Engineer (MM&I), Uttarakhand Power Corporation Ltd. VCV Gabar Singh Bhawan, Kanwali Road, Dehradun.
2. Superintendent Engineer, Corporate (Contract and Procurement), Uttarakhand Power Corporation Ltd. VCV Gabar Singh Bhawan, Kanwali Road, Dehradun.
3. Executive Engineer, Electricity Distribution Division, Uttarakhand Power Corporation Ltd. Jwalapur, Haridwar, Uttarakhand
4. Executive Engineer, Electricity Store Division, FRI Campus, Kaulagarh, Dehradun

Representation No. 61/2019

Order

Dated: 16.03.2020

Being aggrieved with Consumer Grievance Redressal Forum, Haridwar zone (hereinafter referred to as Forum) order dated 29.11.2019 in their complaint no. 121/2019, M/s Lardums Electricals Pvt. Ltd. Ranipur, Haridwar (hereinafter referred to as petitioner) has preferred this appeal/petition through their authorized representative Shri Dev Raj Pathak, Managing Director, M/s Lardums Electrical Pvt. Ltd., against UPCL through their following officers (i) Chief Engineer Garhwal zone Distribution Cum Chief Engineer (MM&I) (hereinafter referred to as respondent no. 1), (ii) Superintendent Engineer Corporate (Contract and Procurement) (hereinafter referred to as respondent no. 2), (iii) Executive Engineer, Electricity Distribution Division, Jwalapur (hereinafter referred to as respondent no. 3) and (iv) Executive Engineer, ESD, Dehradun (hereinafter referred to as respondent no. 4) with the prayer which shall be mentioned later in this order.

2. The petitioner has submitted that their company M/s Lardums Electricals Pvt. Ltd. having its office at BHEL Ancillary Estate, Ranipur, Haridwar is doing the business of power and distribution transformer, polymer insulators and other activities with UPCL. Their unit is duly registered as a micro industry with the Director of Industries, Uttarakhand. The petitioner is working for UPCL through various contracts /agreements entered into by the UPCL and a payment of about 50 lakhs was pending with UPCL. The Executive Engineer, EDD, Jwalapur disconnected their supply on 30.09.2018 due to nonpayment of electricity bill for the month of August 2018 amounting to Rs. 15,595.00 which was payable on 04.10.2018. Having knowledge that the petitioner was working with UPCL and the amount was due on UPCL, he has alleged that the action is a retaliation on their complaint made to secretary energy, Govt. of Uttarakhand vide their letter dated 06.08.2018 which is available on Forum's file. On disconnection of supply they made a representation vide their letter dated 10.10.2018 which is available on Forum's file to the Chief Engineer, Garhwal zone cum Chief Engineer (MM&I), Dehradun for restoration of supply and for making payment of their pending bills, since May 2018. Yet another notice was served to the concerned authorities of UPCL vide their letter dated 27.10.2018 but the same notice was ignored by the concerned authorities. It is a fact that the supply was disconnected on 30.09.2018 as aforesaid without any notice, while all the previous bills have duly been paid, which is against the provisions of section 56 of Electricity Act, 2003 as also clause no. 4.1 (1) of UERC (The Electricity Supply Code) Regulations, 2007 (hereinafter referred to as Supply Code Regulations, 2007) and hence the authorities have acted beyond their powers in arbitrary manner in violation of Article 14 of the Constitution of India.
3. It is further stated that after disconnection of supply, no bills were sent to them from the month of September 2018 and thereafter till date, in violation of sub regulation 3.3.1 (3) of Supply Code, Regulations, 2007, which is an arbitrary act on the part of authorities. The defendants through SMS dated 14.08.2019 raised a payment demand for Rs. 1,64,941.00 even without supply of electricity since October 2018 and without providing copy of bill and while they were supposed to make payment of about 50 lakhs pending since May 2018 with them of their material supplied.

4. They have further stated that even the energy meter is not connected neither in their premise nor on any pole or outside on the gage/boundary of their unit in spite of various requests made by them to the authorities. They have stated that their meter is in possession of the UPCL authorities and even they have not been provided with the sealing certificate in violation of sub regulation 3.1.1 (3&5) of Supply Code Regulations, 2007.
5. Being aggrieved with UPCL authorities they have approached to the Forum. It is stated that the consumer history given by the department vide letter dated 04.10.2019 and the MRI report given vide letter dated 14.10.2019 to the Forum are contradictory and as the meter is under the possession of UPCL authorities any manipulation can be done by them. They have acted against the provisions in Electricity Act, 2003 and Supply Code Regulations, 2007. They have submitted that no arguments or cross examinations were conducted before the Forum and the Forum had given liberty to the department to act against Electricity Act, 2003 and Supply Code Regulations, 2007. Further no reply was given by respondent no. 1, 2 & 4 before the Forum. They have claimed that due to disconnection of their supply on 30.09.2018 they have suffered production loss as well as other financial losses due to shut down of their unit. An estimated production loss of Rs. 10 lakhs has been suffered by them in addition to other losses such as wages and salary, bank interest etc. for which UPCL is only responsible.
6. They have alleged that the Forum did not consider their grievances and points raised by them and an unreasoned order was passed on 29.11.2019 which is based on MRI report of the meter which is under possession of UPCL authorities and for which no sealing certificate was given to them. They have also alleged that the consumer history and MRI report as supplied are unsigned documents and are not based on the facts and there is a controversy among the officials regarding date of disconnection.
7. Readings of the meter which is not installed at their premises and is in possession of UPCL authorities were not taken before them. No bill was given to them since September 2018. No legal or a quasi legal process has been adopted by the Forum which is an act entirely against the principles of natural justice. It is further stated that the department has constantly build up a pressure on them for taking their complaint back. Referring to article 14 of the Constitution of India the petitioner has

submitted that the act of respondent no. 1, 2, 3 and 4 is arbitrary. The petitioner has referred a case law (1995 (1) SCC 478) which provides for compliance of article 14 in any case. The petitioner has also alleged that disconnection of supply of their connection was an arbitrary act leading to close down their unit and is against article 19 (g) and article 21 of the constitution of India.

8. The supply of their unit is lying disconnected for last 14 months which was done by the officials in utter violation of the basic principles of natural justice, equity and and illegal manner and have requested that the supply be restored and the excess payment for the period for which electricity is not being supplied since October 2018 be nullified as the department was already having about Rs. 50 lakhs pending with them. The payment of the bills for August and September 2018 will be made as the UPCL makes the payment of their pending bill. They have also asked for suitable compensation for the damage caused to them due to disconnection of their supply in an arbitrary manner by UPCL which has caused production loss, immense trauma and financial loss to them. Having submitted as above the petitioner has made the following prayers:

- a) Call for records of the complaint no. 121 of 2019 decided by Forum on 29.11.2019. (Forum file has since been collected)
- b) Quash and set aside Forum's order dated 29.11.2019
- c) Order the respondent to install the meter as per UERC regulations and provide the sealing report and penalize the respondent for keeping the meter in their personal possession.
- d) The supply disconnected without notice, illegally, in an arbitrary manner for unjust and malafidy goals causing shutdown of the unit and production loss of Rs. 10 lakhs + wages salary + bank interest, upkeep and godown expenses etc. be ordered to be restored with the order to the respondent to pay compensation/penalty as the act of defendants is against article 9 (g) and article 21 of the Constitution of India.
- e) Excess payment of the electricity for the period for which electricity was not being supplied since October 2018 be nullified, as they already having about

Rs. 50,00,000.00 pending with them and payment of August and September 2018 bills as UPCL gives the pending payment.

- f) Quash and set aside the impugned bill which were never given to them from the month of October 2018 and onwards.
- g) Pass any other order or direction which Hon'ble Ombudsman may deem fit in the interest of justice.

9. The Forum after perusal of the facts of the case and hearing arguments from both parties have observed that as per MRI billing data report the complainant did not consume any electricity after 13.01.2019. They made the last payment amounting to Rs. 17,446.00 on 20.08.2018 and hence it is established that the connection was disconnected in the month of January 2019 for nonpayment of outstanding dues. The Forum did not accept the complainant's plea that they did not pay the electricity bills as the department also did not pay their pending bills towards the works carried out by them and the material supplied by them to the department. As such the Forum was of the view that the complaint was not liable to be accepted or allowed and hence they have dismissed the complaint.
10. Before I proceed further to pass this order it would be expedient to clarify the position/jurisdiction of CGRF/Ombudsman mechanism in view of the relevant UERC regulations applicable to the functioning of CGRFs and Ombudsman as per respective UERC regulations of 2019 and 2004. This is necessary and expedient because the petitioner has raised 2 issues i) regarding disconnection of their connection no. 25930 for 20 KW under industrial category allegedly in an arbitrary manner and in contravention to the relevant regulation and provisions of Electricity Act, 2003 on 30.09.2018 while due date was 04.10.2018 and no payments for the previous bills were pending, except bill in August 2018 and ii) the issue of payment of their pending bills amounting to Rs. about 50 lakhs on account of the works carried out by them and material supplied by them to UPCL as a contractor or a supplier.
11. Jurisdiction of Forum/Ombudsman are duly defined in their respective regulations issued by UERC in the year 2019 and 2004 respectively. Complaint, grievance and appeal/petition before Ombudsman are duly defined in the aforesaid regulations (consumer is duly defined under section 2(15) of Electricity Act, 2003. The matter

relating to payments of the bills of works carried out by a contractor and the material supplied by a supplier to UPCL against orders placed by the competent authorities to any contractor or supplier does not form a complaint to the Forum and also does not form a grievance of the consumer of electricity the contractor/supplier of material in UPCL also does not qualify to be a consumer and as such this matter also do not form an appeal or petition before the Ombudsman and as such this matter does not come under the purview /jurisdiction of CGRF/Ombudsman mechanism and thus can neither be considered or decided by this mechanism, so no comments can be given either by Forum or Ombudsman on this issue. The CGRF/Ombudsman mechanism is concerned only with his complaint regarding disconnection of supply of his connection on account of nonpayment of electricity dues in respect of his connection no. K25930 for which he is a consumer of the licensee, UPCL and thus his appeal/petition to the extent of nonpayment of electricity dues and disconnection of supply due to nonpayment of such electricity dues shall only be considered in this order on merits, based on the records, documents available on file and arguments of the parties during hearing as also in view of relevant regulations.

12. In view of above clarification it is clarified that making respondent Chief Engineer Garhwal zone Distribution Cum Chief Engineer (MM&I), Superintendent Engineer Corporate (Contract and Procurement), and Executive Engineer, ESD, Dehradun as respondent 1, 2 and 4 is irrelevant and uncalled for and Executive Engineer, EDD, Jwalapur who is a representative of UPCL in the capacity of in charge of the distribution division, Jwalapur is only the relevant respondent in the case. In view of the above clarifications neither written statement of respondent no. 1, 2 and 4 nor petitioner's rejoinder to their written statement shall be a part of this order, only the written statement of respondent no. 3 i.e. Executive Engineer, EDD, Jwalapur and petitioner's rejoinder to his written statement shall be discussed in this order.
13. Respondent no. 3, Executive Engineer, EDD, Jwalapur has submitted his written statement vide his letter no. 197 dated 10.01.2020 in which he has submitted as follows:
 - i) No comments have been submitted on point no. 1 to 4, 6 to 9, 18 to 22 and 24 to 27 of the petition.

- ii) In reply to point no. 5 of the petition the respondent has submitted that payment of the bills for the month of 06/2018 and 07/2018 in respect of connection no. JW0K000025930 of M/s Lardums Pvt. Ltd., BHEL Ancillary Estate, Ranipur Haridwar was made by the petitioner on 14.08.2018 vide receipt no. 08/F036789 for Rs. 20,613.00 and on 20.08.2018 vide receipt no. 33/F036789 for Rs. 17,464.00 respectively where after bill for the month of 08/2018 was issued for Rs. 15,595.00 which was not paid by the petitioner, bill for the month of 09/2018 was issued for Rs. 9,412.00 which was also not paid by the petitioner. Due to nonpayment of bills for the above connection the connection was disconnected in the month of 12/2018.
- iii) In reply to point no. 10 of the petition the respondent has submitted that the bill for the month of 09/2018 was for Rs. 15,595.00 and that for the month of 10/2018 was for Rs. 28,522.00 which were not paid and thereafter the connection was disconnected.
- iv) In reply to point no. 11 he has submitted that prior to disconnection bill for the month of 09/2018 was issued on 02.10.2018 based on metered units and thereafter bills were issued on NA.
- v) In reply to point 14 he has submitted that supply to the connection of the petitioner was given by BHEL prior to 08/2014. The meter was installed by UPCL at the same place where it was existing till 08/2014. Meters of other 9 nos. consumers existing in the BHEL's Ancillary Estate are also existing at the place where they were existing till 08/2014.
- iv) In reply to point no. 23 he has submitted that the details of the bills are based on the monthly bills and payments made against them and therefore no manipulation is possible and allegation is baseless. The MRI report of the meter installed at any connection is a technical process which gives complete data of the meter.
- vii) He has substantiated his reply on the basis of MRI billing data report, consumer billing history, list of the consumers referred in reply to para 14, photocopies of which are submitted with the written statement.

14. The petitioner has inter alia submitted a rejoinder in respect of written statement of respondent no. 3 wherein he has submitted as follows:

- i) In reply to para 1 to 4, 6 to 9 he has reiterated the contents of his appeal in the respective paras.
- ii) In reply to para 5 of the written statement he has alleged that contents are misleading, misstated and are incorrect as stated and not admitted. He is making misleading and contrary statement that connection was disconnected on 12/2018 before the Hon'ble Ombudsman, while before Forum through his letter dated 14.10.2019 he has stated that the connection was disconnected in January 2019, while actually the connection was disconnected on 30.09.2018 on nonpayment of bill for the month of August 2018 for Rs. 15,595.00 which was due for payment on 04.10.2018. Having knowledge that the petitioner was working with UPCL and the amount was due on UPCL, it is also incredible that how single phase is shown in the said MRI report attached with letter dated 14.10.2019 referred to above. It is further submitted that in reply to the contents made in para no. 5 of the written statement the contents made in para 5 of the appeal are reiterated.
- iii) The respondent no. 3 is therefore put to strict proof of averment made by him. He has alleged that the contents of para 10 of written statement are misleading, misstated and are incorrect as stated and not admitted, in fact the supply of their unit was disconnected on 30.09.2018 while the bill for August 2018 was payable on 04.10.2018 i.e. before the due date of disconnection without any notice and all the previous bills having already been paid (last payment on 20.08.2018). Keeping a fragrant view to the mandate of section 56 of the Electricity Act, 2003 and clause no. 4.1 (1) of UERC (The Electricity Supply Code) Regulations, 2007 and he has therefore alleged that the authorities have acted beyond their powers in arbitrary manner in violation of Article 14 of the constitution. He has further submitted that as the electricity of their unit was actually disconnected in retaliation on 30.09.2018, then the consumed units would be zero which is also seen from consumer history as zero.
- iv) He has submitted that contents of para 10 of the appeal are reiterated.
- v) In reply to para 11,12 and 13 of written statement he has alleged that the contents in these paras are misleading, misstated and are incorrect as stated

and not admitted. After the connection was disconnected no bills were sent to them for the month of September 2018 and thereafter till date. Keeping a fragrant view to the mandate of clause no. 3.3.1 (3) of Supply Code Regulations, 2007 and therefore the authorities had acted in arbitrary manner. Even the billing history is showing neither MU, NA, NR for the period for bill issue date from 03.07.2018 to 06.12.2018.

- vi) He has alleged that contents of para 14 and 15 of the written statement are misleading, misstated and are incorrect as stated and not admitted. It is pertinent to mention that even the energy meter is not connected neither in their premises nor on any pole or outside on the gate/boundary of their unit in spite of various requests made to the respondent. A sealing certificate has also not been provided to them which is in violation of sub regulation 3.1.1 (3) and (5) of Supply Code Regulations, 2007. During the period the supply was given by BHEL, 2 meters had been installed one at premises of the consumer and other at the substation.
- vii) In reply to para 16 to 27 of written statement he has reiterated the contents of respective paras of the petition.

- 15. Hearing in the case was held on 05.03.2020. The petitioner and all the 4 respondents appeared for arguments. Both parties submitted their oral arguments.
- 16. All documents available on file as well as on the file of complaint no. 121 of 2019 of the Forum as well as relevant regulations and sections of Electricity Act, 2003 have been perused and oral submissions made by the parties have also been kept in view in passing this order.
- 17. As already clarified, keeping aside the matter related to the so called payment due on UPCL for the bills of works carried out by the petitioner as a contractor and the material supplied to UPCL as a supplier not being within the jurisdiction of Forum/Ombudsman mechanism, the matter regarding disconnection of the supply of petitioner's 20 KW industrial connection no. 25930 is being deliberated here. It is borne out that the grievance of the petitioner as a consumer had arose on allegedly disconnection of his supply on 30.09.2018 on nonpayment of the bill for the month of August 2018 which according to the petitioner was due for payment on 04.10.2018 as all the previous bills have duly been paid and nothing was outstanding against them

except the bill for the month of August 2018. The moot question that has to be decided is that which was the actual date of disconnection and what was the position of outstanding dues against him on that date. The petitioner has claimed that his supply was disconnected on 30.09.2018 without any prior notice and it could have not been disconnected before 04.10.2018, the respondent no. 3 has claimed that the connection was disconnected in the month of 12/2018 as no payments were made by the petitioner after the bill for the month of 07/2018 and therefore connection was rightly disconnected in the month of 12/2018. The Forum in their order dated 29.11.2019 have observed that as per MRI billing data report no consumption was made after 13.01.2019 and therefore they have decided that the connection was disconnected on 13.01.2019. It is found that the bill for the month of 08/2018 (available in Forum's file) for the period 01.08.2018 to 31.08.2018 for metered consumption of 2695 KWH for Rs. 15,595.00 was issued on 03.09.2018 showing due date 04.09.2018 and disconnection date 04.10.2018. The billing history shows that subsequent bill for the month of 09/2018 was also issued for a metered consumption of 1365 units. While the bill for the month of 08/2018 was from reading 93686 to reading 96381, the bill for 09/2018 was from reading 96381 to reading 97746. The bill for 09/2018 was issued on 02.10.2018 hence petitioner's allegation that the connection was disconnected on 30.09.2018 does not prove to be correct because had the connection been disconnected on 30.09.2018 it would have not been possible that the reading in the meter in the bill for 09.2018 issued on 02.10.2018 would have been 97746 i.e. more than what it was the final reading on 31.08.2018 in the bill for the month of 08/2018 being 96381. The billing history further shows that bills for 10/2018 and 11/2018 had been issued for zero consumption at the same reading 97746 that was the final reading in the bill for 09/2018, subsequent bills from 12/2018 to 08/2019 have been issued on NA at the same reading 97746 as per billing history Further the billing history shows that a metered consumption bill from reading 97746 to 97843 i.e. for a consumption of 96 unit was issued for the month of 09/2019 on 05.10.2019, subsequent bills from 10/2019 to 12/2019 were issued on NA at the same reading 97843 and therefore petitioner's allegation that no subsequent bills were issued after the bill for 08/2018 also does not prove to be correct. A perusal of the MRI billing data report dated 11.10.2019 also shows that reading on 01.10.2018 was 97746.30 KWH which is the same as in the billing history as the final reading for the

bill of 09/2018. The aforesaid MRI report indicates that reading on 13.01.2019 was 97843.70 higher than that as on 01.10.2018 which suggests that the connection was alive till 13.01.2019 where after the same reading has been shown in the aforesaid MRI report on 11.10.2019. An examination of these reports i.e. billing history and MRI billing data report clearly show that the connection was alive till 13.01.2019 and must have been disconnected on this date. It is therefore established that the connection was neither disconnected on 30.09.2018 as alleged by the petitioner nor in the month of 12/2018 as claimed by respondent no. 3 but on 13.01.2019 as has rightly been observed by the Forum in their order dated 29.11.2019 when as per billing history the outstanding dues up to 12/2018 had been accumulated to Rs. 49,257.00 and which have further been mounted to Rs. 1,15,060.00 up to 12/2019. Such being the case the action of the respondent for disconnection of the supply of petitioner's connection on 13.01.2019 as established by MRI billing data report is justified and is consistent with the provisions in Electricity Act, 2003 and Supply Code Regulations, 2007. The Forum order is upheld. Petition is dismissed.

18. As regards the position of the installed meter admittedly it is installed at respondent's 33 KV substation from where the petitioner is getting supply. Further as reported by the respondent no. 3 in his written statement, meter of the other 8 nos. consumers are also installed at 33 KV substation. It is in violation of the regulations. The respondent no. 3 is therefore directed to install meter of all their 9 nos. consumers at the premises of the petitioner and other consumers, either inside or outside the premises strictly in accordance with sub regulation 3.1.1 (3&5) of UERC Supply Code Regulations, 2007 read with CEA (Installation and Operation of Meter) Regulations, 2006 and its subsequent amendments, within 15 days from the date of this order positively, compliance thereof be reported to the undersigned within 30 days of this order.
19. A perusal of the billing history states that metered units bills have been issued till 09/2018, where after two bills for the month of 10/2018 and 11/2018 have been issued at zero metered units at the same reading 97746 which was the final reading in the bill for 09/2018. NA bills have thereafter been issued from 12/2018 to 08/2019 at a stretch for 9 months, which is in violation of Supply Code Regulations, 2007, sub regulation 3.1.2 (3). Bill for 09/2019 has been issued on metered consumption and thereafter bills for 10/2019 to 12/2019 have again been issued on N.A., which is also in

violation of aforesaid regulations. Although adjustment of these N.A. bills have duly been given as is evident from the billing history. Further since the meter is installed at 33 KV substation of the respondent, so issuing of N.A. bills is questionable. The respondents are directed to investigate the matter as to how N.A. bills for a meter installed at their own premises (33 KV substation) have been issued that too for a prolonged period as mentioned above, in violation of relevant regulations and action against the erring staff be taken within 3 months from the date of this order.

Dated:16.03.2020

(Subhash Kumar)
Ombudsman