

& Anr.

Vs.

Smt. Sudeshna Devi

STATE CONSUMER DISPUTES REDRESSAL COMMISSION UTTARAKHAND, DEHRADUN

Date of Admission : 18.01.2019

Date of Final Hearing : 07.05.2025

Date of Pronouncement : 22.05.2025

SC/5/A/5/2019

1. Uttarakhand Power Corporation Ltd.
Through its Executive Engineer
Electricity Distribution Division, Haridwar
2. Executive Engineer
Electricity Distribution Division, Haridwar
(Through: Smt. Shashi Yogeshwar, Advocate)
.....Appellants

VERSUS

Smt. Sudeshna Devi W/o Sh. Narendra Kumar Sharma

R/o Sitamai, Near Vishudha Ashram, Bhupatwala, Haridwar

....None for Respondent

Coram:**Ms. Kumkum Rani,
Mr. C.M. Singh,****President
Member****ORDER****(Per: Ms. Kumkum Rani, President):**

This appeal has been directed against judgment and order dated 06.12.2018 passed by the learned District Consumer Disputes Redressal Forum, Haridwar (hereinafter to be referred as the District Commission) in consumer complaint No. 31 of 2016 styled as Sudeshna Devi vs. Executive Engineer, Electricity Distribution Division, Mayapur, Haridwar, wherein

and whereby the complaint was allowed directing the opposite party to reconnect the electricity connection within the premises of the complainant within one month from the date of judgment and order. The opposite party was also directed to pay Rs. 2,000/- to the complainant as compensation.

2. The facts giving rise to the present appeal, in brief, are as such that the complainant took an electricity connection No. 3452030071501020008 and account No. 520290715011 from the opposite party – Electricity Department on depositing three times of security, therefore, the complainant is the consumer of the opposite party. It is further stated that after sometime from taking of the connection in question, the employees of the opposite party had disconnected her electricity connection without giving any information to the complainant and also uninstalled the meter and took it with them. This information was immediately given to the opposite party, but even nothing was done. On dated 23.12.2015, the opposite party denied to reinstall the electricity connection, therefore, a complaint was submitted by the complainant before the District Commission.

3. The opposite party has submitted its written statement alleging that the complainant took an electricity connection on depositing three times of security on her assurance that she is a tenant in the property and if there is any dispute after taking the connection, then the electricity connection will be disconnected. It is further alleged in the written statement that complainant never paid the electricity bills after taking the connection in

dispute. Besides it, Sh. Ramkumar Dass, Follower of Siyaram Dass Sitamai Ashram, Bhupatwala, Haridwar has apprised the electricity department that the complainant took the electricity connection after misleading the facts. She has neither obtained any no objection certificate from the owner of the property regarding installation of electricity connection, nor she is the tenant in the property of the premises even the complainant is the unauthorised occupant. It is further pleaded that the husband of the complainant was found involved in electricity theft, therefore, her connection was disconnected and the report to this fact was lodged on dated 15.11.2014 in Police Station, Khadkhadi Thana, Kotwali Haridwar for taking appropriate action as per law against the Narendra Kumar, husband of the complainant. The same Ramkumar Dass has also apprised that several civil and criminal cases are pending in the Court regarding the property where the connection was installed, therefore, the complainant was not liable to get the electricity connection, hence there was no deficiency in service on the part of the opposite party and the complaint case is not maintainable and is liable to be dismissed.

4. The District Commission after hearing both the parties and taking into consideration the pleadings and evidence available on record, passed the impugned judgment and order on dated 06.12.2018 in the above terms.

5. Aggrieved by the aforesaid judgment and order of the District Commission, the opposite party has preferred the present appeal.

6. The respondent inspite of sufficient service did not appear before this Commission, therefore, vide order dated 19.10.2023 an order was passed for ex-parte hearing against the respondent.

7. We have heard learned counsel Smt. Shashi Yogeshwar for the appellants and perused the material available on record.

8. It is an admitted fact that the electricity connection in dispute was given to the respondent – complainant on depositing three times of security on assurance that she is the tenant of the property where the electricity connection is about to be installed. It is also admitted that the respondent has also given an affidavit before the Department that if there is any dispute of non-payment of dues, then this connection will be disconnected.

9. Learned counsel for the appellant has submitted an affidavit filed in the Department before the Executive Engineer, Electricity Department wherein the respondent has specifically mentioned that there is no dispute pending between the respondent and the owner of the property in any Court and she is the tenant of the property (paper No. 18). Paper No. 19 is a letter on the letter pad of Sitamai Ashram, Near Ayodhya Dham, Old Rishikesh Road, Bhupatwala, Haridwar issued from Ramkumar Dass, Follower of Swami Siyaram Dass, Sitamai Ashram, Bhupatwala, Haridwar, wherein it is specifically mentioned that the respondent is the wife of Sh. Narendra Singh, who was found involved in theft of electricity alongwith one shop-keeper. There was also electricity dues pending in regard to the old electricity connection No. 12410191736 and the same was sanctioned in

the name of Sh. Narendra Singh, who was involved in theft of electricity. The said connection was disconnected and an amount of Rs. 1,20,806/- is also due towards Sh. Narendra Singh thereby the respondent and Sh. Narendra Singh have obtained the electricity connection in question keeping the department in dark which is also punishable under law. Paper No. 20 is the FIR of theft against the husband of the respondent as well as one shopkeeper. The said theft occurrence came to the knowledge of the Department on dated 14.11.2014 when the inspection team visited the premises. The appellant has also submitted an affidavit of Smt. Sudeshna Devi (paper Nos. 48 & 49) wherein in para No. 6, the respondent – complainant has stated that:-

“परिवादनी आज भी उक्त भवन पर काबिज है और उसके
और भवन स्वामी के मध्य 30(2) रेंट कन्ट्रोल एक्ट का वाद
मान्य न्यायालय में विचाराधीन है।”

Thus, the deponent – respondent has also admitted that a dispute was also pending between the landlord and the respondent under Section 30(2) of Rent Control Act. Thus, all the facts mentioned in the affidavit has revealed that there was a dispute of tenancy which is pending in the competent Court, apart from it, the respondent’s husband had obtained an electricity connection, on which substantial dues were found outstanding against him. Moreover, when the electricity connection was obtained by the respondent, at that time there was a dispute pending between the tenant and the owner of the property. It is also proved on record that the husband of the respondent was involved in electricity theft and a police report in the

Police Station Khadkhadi Thana Kotwali, Haridwar was lodged against him. While applying for the electricity connection, the respondent concealed the material facts regarding her husband's electricity connection, his involvement in electricity theft and corresponding police report lodged in Khadkhadi Police Station. Therefore, the Electricity Department has rightly disconnected the electricity connection of the respondent on the ground of giving false facts while taking new connection in her name.

10. The respondent has also not submitted any evidence in regard to the fact that she has paid the amount of electricity dues to the Department. We are also of the view that the District Commission has wrongly held that before making the disconnection, a show-cause notice be given to the respondent. Thus, we are of the considered view that the impugned judgment passed by the District Commission is against the facts, evidence and not in accordance with the mandate provisions of law. Therefore, we are of the considered view that the impugned judgment passed by the District Commission is perverse and the District Commission has passed the impugned judgment and order without exercising the jurisdiction vested in it, the Commission below has also acted with material illegality and infirmity while passing the impugned judgment and order. Therefore, the impugned judgment and order dated 06.12.2018 passed by the District Commission, Haridwar is liable to be set aside and the consumer complaint is liable to be dismissed.

11. Accordingly, the appeal is hereby allowed. Impugned judgment and order dated 06.12.2018 passed by the District Commission, Haridwar is set

aside and the consumer complaint stands dismissed. No order as to costs of the appeal.

12. Statutory amount deposited by the appellants, if any, be returned to the appellants.

13. A copy of this Order be provided to all the parties free of cost as mandated by the Consumer Protection Act, 1986 / 2019. The Order be uploaded forthwith on the website of the Commission for the perusal of the parties. A copy of this Order be sent to the concerned District Commission for record and necessary information.

14. File be consigned to record room along with a copy of this Order.

(Ms. Kumkum Rani)
President

(Mr. C.M. Singh)
Member

Pronounced on: 22.05.2025