

PUNJAB STATE ELECTRICITY REGULATORY COMMISSION

SITE NO. 3, BLOCK B, SECTOR 18-A MADHYA MARG, CHANDIGARH

Petition No. 37 of 2022

Date of Order: 28.07.2023

Petition under Section 43 of the Electricity Act, 2003 read with Regulation 5.1 regulation 44,45,46 and 47 of the Supply Code, 2014 and other relevant rules and regulations as approved by Hon'ble Commission including 68,69, 70, 71 and 72 and other relevant provisions of Chapter XIII of the Conduct of Business Regulations 2005 as amended upto date and the provisions of the Electricity Act, 2003 for directing the respondents to render respective permanent Domestic supply Electricity Connections to the petitioners for their residential houses in the colony.

AND

In the matter of:

Pushap Paul Sharma S/O Madan Lal, House No. 485, Sector- 86, Preet City, SAS Nagar, Mohali Punjab & Ors through Sh. Balkar Singh S/o of Sh. Bhag Singh House No. 952, Sector 86, Preet City Mohali, Punjab.

....Petitioners

- 1 Punjab State Power Corporation Limited having its office at the Mall, Patiala through its Chairman Cum Managing Director.
- 2 Chief Engineer (Commercial), The Mall, Patiala.
- 3 Superintending Engineer, PSPCL, Ropar.
- 4 Executive Engineer/Operation PSPCL, Mohali.
- 5 Assistant Executive Engineer, Technical-3 PSPCL, Mohali .
- 6 Greater Mohali Area Development Authority (GMADA) having its office at PUDA Bhawan Sector-62, S.A.S Nagar Punjab through its Chief Administrator.
- 7 Preet Land Promoters and Developers Private Limited through its Director Sh Charan Singh Saini having its office at Preet City (Near Water Tank, Sector -86 SAS Nagar Mohali.

....Respondents

The Commission: Sh. Viswajeet Khanna, Chairperson
Sh. Paramjeet Singh, Member

Petitioner: Sh. Aditya Grover, Advocate
PSPCL: Sh. Naveen Bhardwaj, Advocate
GMADA: None
Preet Land Promoters: None

Order

The petition has been filed by residents of Preet City Colony, Sector-86, SAS Nagar, Mohali under Section 43 of the Electricity Act, 2003 read with Supply Code, 2014 and Conduct of Business Regulations, 2005 for release of permanent electricity connection to their residential house in the colony.

1. The Petitioner submitted as under:

1.1 The colony had been developed by Sh. Charan Singh Saini and his partners and accordingly the Plots have been sold to the persons like the petitioners on the pretext that the entire colony comprising of Residential/Group Housing, Institutional and commercial units has been approved as a Mega Project in Sector 86, Mohali and has been granted change of land use by the Govt. of Punjab, Department of Housing and Urban Development. More than 350 people, including the petitioners, have purchased plots from Preet Land Promoters and Developers Pvt. Ltd, Sector 86, Mohali and had got the sale deeds registered with the Revenue Authorities, Government of Punjab.

1.2 Some of the Petitioners were granted temporary connections by PSPCL for constructing their houses. In some other cases, files have been accepted and even payment of requisite charges had been made but temporary connections had not been rendered. In some of the cases even the files have not been accepted.

- 1.3 All the Petitioners, presently, have fully constructed houses. However, permanent electricity connection for their respective houses have not been released by PSPCL. Moreover, many of the employees of PSPCL are also residing in the colony who had been rendered permanent electricity connections by PSPCL.
- 1.4 The developer Sh. Charan Singh Saini and his partners are absconding and had abandoned the colony while leaving the occupants such as the Petitioners in the lurch. Due to the sins and wrongs of the developer, the innocent petitioners who had been cheated by the developer are unnecessarily being made to suffer. The petitioners had time and again approached PSPCL for rendering the respective electricity connections. However, PSPCL had flatly refused the petitioners to render electricity connections to any of the houses in the colony.
- 1.5 In terms of the Electricity Supply Instructions Manual Regulation 3.3 (C), no NOC is required for the release of connections for Domestic/ Industrial/Commercial use of electricity. Further, as per section 43 of the Electricity Act, PSPCL is bound to render connectivity to the petitioner being the sole distribution Licensee in the state of Punjab. However PSPCL, instead of performing its duties, is unnecessarily harassing the Petitioners.
- 1.6 The developer has not developed the complete LD System in the colony and has not fulfilled the requisite formalities with PSPCL and as such has absconded and abandoned the colony. However, some of the LD system exists in the colony, which will probably suffice to render electricity connections to the Petitioners for their houses which are only 26 in number.

- 1.7 The Commission, while adjudicating Petition Nos. 13 of 2020, Petition No. 22 of 2020, Petition No. 47 of 2020 and Petition No. 48 of 2020 filed by residents of Sunny Enclave, Patiala, Shivalik City, Kharar, RKM City, Mohali and Gulmohar City, Mohali respectively, directed PSPCL to render regular/permanent electricity connections in ibid colonies.
- 1.8 The petitioners were willing to pay the requisite charges for seeking new connections for their houses/plots and PSPCL should not be permitted to deny new electricity connections to the petitioners. The petitioner requested for a direction to PSPCL to render electricity connections.
- 2.0 The petition was admitted vide Order dated 29.09.2022. PSPCL and other respondents were directed to file their reply with a copy to the petitioner within 2 weeks and the petitioner was directed to file the rejoinder within a week thereafter.
- 3.0 During the hearing on 23.11.2022, the Counsel for PSPCL requested for time to file their reply. Vide Order dated 24.11.2022, the Commission directed PSPCL to file its reply within two weeks with a copy to the petitioner and other parties. GMADA had also not filed a reply and was directed to file its reply within two weeks with a copy to the petitioner. The developer had neither appeared nor filed any reply and was granted one last opportunity to file its reply failing which costadditional penalty could be imposed for non compliance of the orders of the Commission.
- 4.0 GMADA filed its reply on 21.12.2022 and submitted as under:
- 4.1 Developer (M/s. Preet Land Promoters & Developers Pvt. Ltd.) had got its Mega Housing Project approved from the Empowered

Committee headed by the Chief Minister, Punjab in its meeting held on 27.01.2006 and after the said approval, Letter of Intent indicating the concessions granted to the Developer by the Government was issued by the Nodal Agency, PUDA vide Memo No. PUDA/ACA(Pr.)/2006/ 17566 dated 02.05.2006.

4.2 Subsequently, an agreement was signed by the said Promoter with the Government of Punjab, Department of Housing and Urban Development on 30.06.2006. Thereafter, Supplementary Agreement dated 04.01.2018 was also executed by the Developer with the Government of Punjab, Department of Housing and Urban Development by which the implementation period of the Mega Housing Project of the Developer was extended from 01.07.2015 to 30.06.2018. Further, as per notification No. 891862/1 dated 15.12.2016 issued by Government of Punjab, Department of Housing and Urban Development, implementation period for this Project was further extended by the Chief Administrator, PUDA from 01.07.2018 to 30.06.2021 vide Memo No. 321 dated 24.08.2020.

4.3 After signing of the agreement with the Government, the Developer had also obtained permission for Change of Land Use for 93.41 acres of land of its Mega Housing Project from the office of Chief Town Planner, Punjab on 05.09.2008. Thereafter, vide Notification No. CTP (Pb) MPR.4/2749 dated 13/14.10.2009 issued by the Government of Punjab, Department of Housing and Urban Development, 91.50 acres of area falling in the Mega Housing Project (Preet City) of the developer, falling in Sector 86, S.A.S. Nagar was granted exemption from the provisions of the

Punjab Apartment & Property Regulation Act, 1995, except Section 32 of the Act, subject to the terms and conditions mentioned therein.

4.4 The Developer had got approved a Revised Layout Plan of its Mega Housing Project having 74.397 acres Net Plan Area from Chief Town Planner, Punjab on 04.11.2020. However, it has not obtained the Completion Certificate or Partial Completion Certificate from the Competent Authority by completing the Internal Development Works of its Mega Housing Project, including electrification works, within the extended period upto 30.06.2021.

4.5 GMADA submitted that the condition no. (xv)(h) of the Letter of Intent dated 02.05.2006 and condition no. 5 (VI)(g) of the agreement dated 30.06.2006 provided as under:

“The electrification work will be carried out as per design and specification approved by PSEB under their strict supervision.”

So far as Internal Development Works were concerned, it was the sole responsibility of the developer to complete the same within the implementation period or extended period and also to obtain the Completion Certificate or Partial Completion Certificate from the Competent Authority. The Government or GMADA has no liability towards the completion of internal development works of a private project. Even otherwise, the Promoter was bound to complete all internal development works including electrification works of its Mega Housing project at its own cost as per terms and conditions of the agreements executed with the Government within the implementation period, which was extended upto 30.06.2021.

4.6 There is no policy of the Government, by which the Competent Authority was bound to obtain a bank guarantee or mortgage of property in lieu of the estimated cost of internal development works from the Promoters of such Mega Housing Projects, which stand exempted from the provisions of the Punjab Apartment & Property Regulation Act, 1995. Therefore, GMADA had not obtained any bank guarantee or mortgage of property from the developer towards the estimated cost of internal development works including electrification works of this Mega Housing Project (Preet City), Sector 86, S.A.S Nagar.

4.7 In the present petition, the Petitioners have not made any prayer seeking any relief against the GMADA. As such, the present petition may kindly be dismissed qua GMADA.

5.0 PSPCL submitted its reply to the petition vide memo no. 5132 dated 16.04.2023 and stated as under:

5.1 The original NOC to M/s. Preet Land Promoters & Developers Pvt. Ltd for the 100.96 acre residential colony named Preet City was issued vide memo no. 2215 dated 06.12.2011 under Clause 8.5 of the Conditions of Supply. The estimated cost of the LD system was Rs.106.85 Lakh and the total estimated load of the colony was 3437 kW which was proposed to be fed from 13 nos 300 kVA distribution transformers. As per Clause 5 of the said NOC, the estimated time period to complete the development of electrical LD system of the colony was three years.

5.2 As per Clause 8 of the said NOC, load for only 550 residential plots was considered with a condition that if land in the proposed sector is to be acquired by the Govt., as marked on the approved

layout plan, a revised load sheet/electrical layout will be got approved as per norms of PSPCL. Further, another condition was imposed that in future if the supply voltage for the project comes at 66 kV, the cost of the 66 kV grid sub-station/allied equipments/lines would be borne by the developer, and land for 66 kV sub-station would also be provided free of cost by the developer. Further, no credit would be claimed by the developer for 11 kV lines/equipment erected for giving supply to these 550 plots.

5.3 The Promoter wanted to revise its overall layout plan by revising the number of residential plots/number of shops, etc. Thereafter, on the request of the developer, a revised NOC was issued to the developer for the same colony for the same area (100.96 acre) vide memo no. 3900 dated 23.09.2016. This NOC was granted under Regulation 6.7.1 of Supply Code, 2014 for a total estimated load of 5161kW/5735 kVA to be fed through 18 nos 500 kVA and 2 nos 300 kVA distribution transformers. The connectivity to the colony was to be provided by erecting 2 nos 11 kV feeders with 240mm² XLPE cable from the existing 66 kV grid substation Sector-80, Mohali. The estimated cost of the LD system was Rs.1,66,74,704/- and validity of the NOC was for five years from the date of issue.

5.4 Out of the total project area of 100.96 acre, an area of 18.876 acre was shown as reserved area. While issuing the revised NOC, no load was considered for this reserved area and a condition was incorporated in the revised NOC that whenever the

developer plans to undertake development activity in this reserved area, a revised NOC shall be obtained from PSPCL.

- 5.5 As per the revised NOC, the Preet City colony falls under the Mohali Master Plan, the connectivity for which had been approved from the existing 66 kV sub-station Sector-80. Under the Mohali Master Plan, all the charges related to the 66 kV grid sub-station, 66 kV transmission line and 11 kV feeders are to be borne by GMADA as per the undertaking given by GMADA.
- 5.6 As per Clause 5 of the revised NOC, in case of a request for energisation of the incomplete LD system, the developer would have to submit a Bank Guarantee (valid for 5 years) equivalent to 150% of estimated cost of the balance works.
- 5.7 Further a representation from Preet City Resident Welfare Association (RWA) dated 26.05.2018 was received vide which the RWA informed that the developer had not completed the work of the LD system. The residents stated that they had deposited the EDC amount and that the developer was facing litigations. The residents also prayed for release of electricity connections by taking Service Connection Charges (SCC) on similar lines as was being done in other sectors developed by GMADA.
- 5.8 Dy.CE/DS Mohali vide memo dated 28.05.2018, intimated that the developer, after taking the NOC had not developed the complete local distribution (LD) system in the colony and that residents were demanding regular electricity connections. The field office also stated that 2 nos 500 kVA & 2 nos 300 kVA transformers and some work related to HT lines had been

completed by the developer. Out of two nos. 11 kV feeders as approved in the NOC, only one 11 kV feeder emanating from the 66 kV substation in Sector-80 stood erected for which the charges had been deposited by the developer. However, the promoter had not approached field office for seeking connectivity for the colony. Further, it was informed that the promoter was in judicial custody as many allottees had initiated legal proceedings against him.

- 5.9 After due deliberation on the representation from the RWA and the field office report, it was decided and conveyed to the field office vide memo no. 369 dated 31.05.2018 that Dy. CE/DS Mohali should write to Chief Administrator/GMADA with a copy to Secretary, Department of Housing & Urban Development, GoP to deposit the following charges/Bank Guarantee to PSPCL as per terms & conditions of NOC/Supply Code, 2014, so that electricity connections could be released in the Preet City colony:-
- a) 150% BG of the balance amount of the incomplete LD system
 - b) Supervision charges on the labour cost of the already installed LD system (total of Rs. 1,85,857/-)
 - c) Estimated amount of balance works to energize the already installed 4 nos transformers.
- 5.10 SE/GMADA vide memo no. 1724 dated 25.06.2018 replied that as per the prevailing policy of GMADA, the required charges/Bank Guarantee for the Mega Project of Preet City in Sector 86 Mohali was to be deposited by the promoter itself and GMADA had nothing to do with it.

5.11 Dy. CE/DS Mohali vide memo no. 1122 dated 10.02.2020 requested for increasing the estimated load approved in the revised NOC dated 23.09.2016 from 5161 kW/5735 kVA to 5800 kW/6445 kVA citing registries/ construction of houses being done in the reserved pocket of 18.876 acre. It was informed that 93 residents having plots in this reserved pocket had applied for electricity connections with a total estimated load of 639 kW. Further, it was communicated that as per the revised NOC, the developer has installed DTs of 6000 kVA total capacity and has also deposited a BG (valid till 22.05.2022) amounting to Rs. 80 Lakh against the balance works and that approx. 2600 kVA of load was running in the colony.

5.12 CE/DS South Zone, vide memo no. 2471 dated 06.03.2020, replied that no layout plan had been got revised by the developer. Further it was informed that now 93 applicants have applied for electric connections by submitting proof of ownership/letter of allotment with possession letter in the field office. However, the plots of all these applicants fall in the reserved pocket for which the developer has not taken the revised NOC from PSPCL. However, considering the spare transformer capacity, applicants demand and hardship; the case may be considered for release of connections.

After consideration, it was decided & conveyed vide memo no. 285 dated 20.03.2020 that as per clause 1 of the revised NOC dated 23.09.2016, the developer has to seek a revised NOC whenever he plans the development of the reserved area. Therefore, the Field office should intimate the developer to apply

for a revised NOC as per the approved revised layout plan, so that connections could be released to the residents in the reserved area.

6.0 During the hearing on 18.01.2023, Sh. Charan S. Saini, appeared for Preet Land Promoters and Developers Private Limited, and submitted that the promoter is willing to complete the LD system of the colony. The Commission vide Order dated 23.01.2023 directed the developer to file its reply in writing within two weeks with a copy to the other parties and decided to club the petition with petition No. 07 of 2021.

7.0 During the hearing on 28.04.2023, the representative appearing for the Developer, had submitted that the company would get the said property approved from GMADA/PUDA within 18 months from the date of providing electricity connections to the petitioners. The Commission vide Order dated 07.05.2023 directed PSPCL to respond to the submission of the developer well before the next date of hearing.

8.0 The petition was heard along with petition No. 07 of 2021 on 19.07.2023 and after hearing the parties, the order was reserved.

9.0 Commission's Findings and Order

The petition has been filed by the residents of Preet City colony, Mohali, under Section 43 of the Electricity Act, 2003 read with various provisions of the Supply Code and Conduct of Business regulations. The petitioners claimed that they have constructed the houses but PSPCL is not releasing permanent electricity connections to their respective houses. The developer has not completed the LD System in the colony but the existing LD System in the colony is sufficient to render electricity connections to the petitioners. In terms of Section 43 of the Electricity Act, 2003, PSPCL is bound to release electricity connection to the petitioners.

GMADA in its reply submitted that the developer got its colony approved as a Mega Housing project and GoP, Department of Housing and Urban Development vide Notification dated 13/14.10.2009 exempted the project from the provisions of PAPRA, except Section 32 of the Act, subject to terms and conditions mentioned in the notification. One of the condition provides that “the electrification work will be carried out as per design and specification approved by PSEB under their strict supervision”. As the project was exempted from PAPRA, no bank guarantee or mortgage of property towards estimated cost to the internal development works including electrification work of this mega housing project was obtained by GMADA. It has further been informed that the developer has not obtained a completion certificate or partial completion certificate from the competent authority by completing internal development works in the project area.

PSPCL in its submissions stated that the NOC to the developer was issued on 06.12.2011 and as per Clause 8 of the NOC a load for only 550 residential plots was considered with a condition that if land in the proposed sector is to be acquired by the Government, as marked on the approved layout plan, a revised electrical layout/load sheet will be got approved by the developer as per PSPCL norms. On the request of the developer a revised NOC was issued on 30.09.2016 and a total estimated load of 5161 kW/5737 kVA was approved. Out of the total project area of 100.96 acres, an area of 18.876 acre was shown as reserved area. While issuing the revised NOC, this area was not considered for calculating the load and a condition was incorporated in the revised NOC that whenever the developer plans to undertake development activity in this reserved area, a revised NOC shall be obtained from PSPCL. As per the report of the PSPCL, the connections of the petitioners fall in the reserved area and can

be released only after issue of the revised NOC by PSPCL as per the approved revised layout plan.

The representative of the developer, during the proceeding, submitted that the promoter is willing to complete the LD System in the colony but further added that the promoter needs 18 months from the date of providing electricity connections to the petitioners to get the said property approved from GMADA/PUDA.

The crux of the issue is that the houses of the petitioner fall in the reserved area of the project and as per the revised NOC issued by PSPCL, one of the conditions was that whenever the developer plans to undertake development activity in this reserved area, a revised NOC, as per the approved revised layout plan, shall be obtained from PSPCL. The promoter has failed to get the layout plan revised from the competent authority resulting in the refusal of PSPCL to issue a revised NOC.

In the order dated 25.07.2023 in petition no 07 of 2021, the Commission has discussed the legal provisions governing the release of connections in the licensed colonies and has held as under;

“56. Thus, from the above stated position of law, it emerges that;

- 1. As held by Hon’ble Supreme Court in its order dated 19.05.2023 in Civil Appeal No 2109-2110 of 2004, the duty to supply electricity under Section 43 of the 2003 Act is not absolute and is subject to such charges and compliances stipulated by the Electric Utilities as part of the application for supply of electricity.***

- 2. Under section 50 of the Act, State Commission is authorized to notify Electric Supply Code and use of expressions such as recovery of charges, disconnection/reconnection etc in section 50 of the Act indicate that scope of regulatory powers of the State Commission is wide enough to govern all matters relating to the supply of electricity in the premises of an applicant.**
- 3. The Commission framed the Supply Code Regulations under section 181 read with other relevant sections of the Electricity Act, 2003, which is a sub-ordinate legislation.**
- 4. The release of connection to the applicants by the distribution licensee in his area of distribution is governed by the terms and conditions specified in the Supply Code Regulations. The release of connections in the residential colonies developed under the bye-laws and rules of the State Government are governed by the provisions of Conditions of Supply and the Supply Code, 2014, as amended from time to time.**
- 5. As per this regulation, the LD system is required to be erected by the developer and electric connections to the residents can be released by the distribution licensee only after completion of the LD system and its inspection by CEI. In case a developer intends to avail connectivity to a partially developed LD system then BG, as specified in Supply Code, shall be furnished by the developer.**

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The release of connections in the licensed colonies is governed by Regulation 6.7 of the Supply Code, 2014. The promoter is required to get an NOC from PSPCL for which the promoter shall submit the complete layout plan of the electrical network i.e. Local Distribution (LD) system proposed to be erected in the colony/complex and other documents prescribed by the licensee. The relevant regulations read as under;

The relevant provisions of Regulation 6.7 are as under;

“6.7 Supply of Electricity to Individual Consumers in the Residential Colonies/ Multi-Storey Residential Complexes, Commercial complexes/malls, IT parks developed under bye-laws/rules of the State Govt.

In the event of Residential Colonies / Multi-Storey Residential Complexes, commercial complexes/malls, IT parks (hereinafter referred as colonies/complexes) developed by developers/builders/ societies/owners/ associations of residents/ occupiers (hereinafter referred as promoters) under bye-laws/ rules of the State Govt. not covered under Regulation 6.6 above, the promoter(s) shall provide complete Local Distribution (LD) system in the colony/complex as per the electric layout plan approved by the distribution licensee and shall also bear all expenses for providing electrical connectivity to such colony/complex by the distribution licensee as specified in this regulation. The promoter includes any agency whether Govt./Local body or private that develops the colony/complex. The residents/occupiers of such colonies/complexes shall obtain individual connections directly from the distribution licensee and the release of such

connections shall be governed by the following terms and conditions:-

6.7.1 a) For obtaining the NOC from the licensee, the promoter shall submit the complete lay out plan of the electrical network i.e. Local Distribution (LD) system proposed to be erected in the colony/complex and other documents prescribed by the licensee along with the processing fee as per Schedule of General Charges within 45 days of the issue of licence. In case the promoter withdraw his request or fails to comply with the conditions within the stipulated time, the processing fee shall be forfeited. In case of the failure of the promoter to approach distribution licensee for obtaining NOC within stipulated time, the matter shall be taken up by the distribution licensee with the licensing authority for taking action as per law and conditions of licence.

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The revised NOC issued by PSPCL has laid down the condition that whenever the promoter plans any development activity in the reserved area of 18.876 acre he shall obtain a revised NOC from PSPCL. Thus, the promoter has to get the NOC revised from PSPCL as per the approved layout plan and erect the electric system as specified in the Supply Code, 2014. After clearance from CEI and payment of other charges as applicable, the connections to the residents can be issued by the distribution licensee. The offer of the promoter that he needs 18 months from the date of providing electricity connections to the petitioners to get

the said property approved from GMADA/PUDA is like putting the cart before the horse. The promoter has to get the layout plan approved for the reserved area first and only then can PSPCL process the case for issuance of revised NOC on the basis of the revised layout plan.

Accordingly, the promoter is directed to get the necessary approvals immediately. GMADA is also directed to take necessary punitive action against the promoter for violation of the conditions governing the Mega Housing Project approved by the State Government including not installing the LD System which has adversely affected the rights of the number of colony residents in obtaining authorized and valid electric connections. PSPCL shall release these connections as per the provisions of the Supply Code, 2014, as amended from time to time, immediately on the compliance of the revised NOC by the promoter.

The petition is disposed of accordingly.

Sd/-

(Paramjeet Singh)
Member

Sd/-

(Viswajeet Khanna)
Chairperson

Chandigarh

Dated: **28.07.2023**