

PUNJAB STATE ELECTRICITY REGULATORY COMMISSION
SITE NO. 3, BLOCK B, SECTOR 18-A MADHYA MARG, CHANDIGARH

Petition No. 26 of 2023
Date of Hearing: 03.08.2023
Date of Order: 10.08.2023

Petition under conduct of business Regulations 2005 of PSERC under EA-2003 seeking compliance of regulations issued by PSERC and EA-2003 and suitable action against respondents u/s 142 and 146 of EA-2003 for not complying with the regulations and time schedule under Section 126 of the Electricity Act 2003.

AND

In the Matter of : Kamaljit Kaur Phase VIII, Focal Point, Ludhiana.

....Petitioner

Versus

1. Sr. Xen, Focal Point Division PSPCL, Ludhiana.
2. Deputy Chief Engineer, City East Circle, Ferozpur Road, PSPCL, Ludhiana.

.....Respondents

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

Petitioner: Sh. Jatinder Singh Dua, Advocate

PSPCL: Ms. Harmohan Kaur, CE/ARR&TR
Sh. Ajay Bansal, Dy.CE
Sh. J.K Jindal, Sr.Xen
Sh. Arminder Singh, Sr.Xen, Focal Point

ORDER

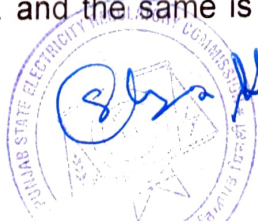
1.0 The petitioner has filed the present petition praying for a direction to the respondents to comply with the provisions of the Regulations framed by the Commission and refund the amount alongwith interest as prescribed in the Regulations till the actual date of refund and further to take



[Handwritten signature] 1

action against the respondents for willful contravention of the Regulations framed by the Commission and not following any time schedule under Section 126 of the Electricity Act and unnecessary harassment by inflating the assessment.

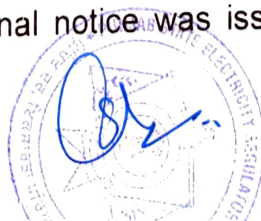
1.1 The petitioner is having electric connection with Account No. 300 3540471 at Ludhiana. The connection was checked by Sr.Xen Focal Point Focal Point on 12.06.2022 and the petitioner was issued a provisional order of assessment dated 20.05.2022 for unauthorized use of electricity under Regulation 36 of the Supply Code 2014 and Section 126 of the Electricity Act for Rs. 8244887. The petitioner raised objections against the provisional order of assessment and when it came to the notice of the Sr.Xen Focal point Division Ludhiana that he was not the authorized assessing officer, a provisional notice dated 04.08.2022 was again issued by AEE Commercial, Focal Point Division Ludhiana for Rs. 9384969/-. Final Order of assessment for Rs. 9384969/- was issued without bearing any memo No. and date. The petitioner has referred to proviso to Regulation 36.1.3 and Regulation 36.2.3 of the Supply Code, 2014 and submitted that the procedure as prescribed under the Supply Code has not been complied with and non-compliance of procedure is to be treated as willful contravention of the provisions of the Act and the Regulations, and the assessing officer may be proceeded against under Section 142 of the Act. The petitioner has submitted that no notice of 15 days was sent to the petitioner and as per the record of the PSPCL the MDI on 02.05.2021 was 146 KVA. So if any such notice was sent then why did the assessing officer wait for 1 year and 4 months to issue the provisional notice. It is clear that the assessment has been made just to harass the petitioner. Further, the inspection report is to be prepared by the assessing officer designated by the State Govt. and the same is to be prepared before issue of the



[Handwritten signature]

Provisional notice but in the present case checking was done by the assessing officer on 10.06.2022 and provisional notice was issued on 04.08.2022. The petitioner has further referred to the judgment of the Hon'ble Supreme Court in case of the Executive Engineer vs M/s Sri Seetaram Ricemill (2012(2) Apex Court judgment (SC) 536 and has submitted that in cases of excess load consumption the sanctioned load inter-alia would fall under explanation (b) (iv) to Section 126 of the Electricity Act 2003. However, in the present case the assessing officer has charged for entire load instead of excess load only and the assessment has been wrongly made for a period more than 1 year causing undue financial hardship to the petitioner. The respondents have further contravened the provisions of Section 171 of the Electricity Act with regard to manner of service of notice.

2. The petition was fixed for hearing on admission and notice was also issued to PSPCL. PSPCL has submitted vide memo No. 6701 dated 01.08.2023 that M/s Kamaljeet Kaur (CA no. 3003540471) is a Medium Supply consumer having Sanctioned Load/ Demand as 90KW/99KVA. The connection of the consumer was checked by Sr.Xen Enforcement vide ECR No. 18/512 dated 09.04.2021. Thereafter, the consumer was issued a notice vide letter memo no. 1987 dated 20.04.2021 to either remove his excess load (more than 100KW/KVA) or get his load regularized from the department. However, the consumer didn't comply with the said notice and continued using excess load even after he was apprised. The connection was again checked by AEE Tech-2 cum Assessing officer and Sr.Xen Focal Point on 16.05.2022 vide LCR No. 38/1270, the connected load found at the premises of the said connections was 139.618 KW, which is more than 100KW. Thereafter, another checking was done by AEE Tech-2 vide LCR No. 38/1270 dated 12.06.2022, and provisional notice was issued as on 04.08.2022 vide



by 

memo no. 13075. Thereafter, after giving due personal hearings, the consumer was issued a Final Order notice vide memo no. 14484 dated 07.11.2022 of amount Rs.93,84,969/-.

- 2.1 The petitioner had filed a Civil Writ Petition in Hon'ble Punjab & Haryana High Court, Chandigarh vide CWP no. 30203 of 2022 for directing Appellate Authority cum Sr.Xen P&M PSTCL, Ludhiana for entertaining the appeal without insisting upon the deposit of 50% of the assessed amount. The Hon'ble High Court disposed of the petition with a direction to respondent no. 2 (Appellate Authority cum Sr.Xen P&M PSTCL, Ludhiana) to decide the appeal on merit in the event of petitioner making good pre-deposit as per the regulations within a period of 2 weeks from the date of the order. As per the Hon'ble High Court orders, the consumer filed an appeal before the Appellate Authority cum Sr.Xen P&M PSTCL, Ludhiana vide Diary No. 27 dated 04.01.2023. The Last date of hearing of the said case before the Appellate Authority was 21.07.2023. The consumer has approached PSERC, even though his case is still pending before the Appellate Authority.

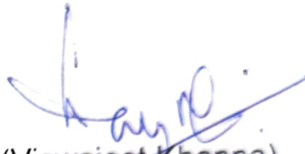
Observations and Decision of the Commission

3. The Commission has examined the petition and the reply filed by PSPCL as well as the submissions made by the Ld. Counsel for the Petitioner and the representative appearing for PSPCL. On a perusal of the matter it is apparent that proceedings under Section 126 of the Electricity Act 2003 were initiated against the petitioner for unauthorized use of electricity (UUE). Final Order of assessment was passed against the petitioner and the petitioner was directed to deposit an amount of Rs. 9384969. The petitioner has filed an Appeal under Section 127 of the Electricity Act before the Appellate Authority challenging the Order of final assessment. The Appeal is still being heard and while it is




Pending, the Petitioner has also filed the present petition. In view of the above facts, the Commission is of the opinion that pending appeal before the Appellate Authority, entertaining the present petition on the same subject matter would amount to encroaching upon the jurisdiction of the Appellate Authority. The petitioner has the right to agitate all the issues raised in the petition before the Appellate Authority. The petition does not merit to be admitted for hearing and is accordingly dismissed in limine.


(Paramjeet Singh)
Member


(Viswajeet Khanna)
Chairperson

Chandigarh

Dated: 10.08.2023

Authenticated

Sheeta Shander
Dy. Registrar
Punjab State Electricity Regulatory Commission
Chandigarh

