PUNJAB STATE ELECTRICITY REGULATORY COMMISSION
SCO NO. 220-221, SECTOR 34-A, CHANDIGARH

Petition No. 24 of 2018
Date of hearing: 26.09.2018
Date of Order: 11.10.2018

Present: Ms. Kusumjit Sidhu, Chairperson
Sh. S.S. Sarna, Member
Ms. Anjuli Chandra, Member

In the matter of: Application under Regulation 40(2) of the Punjab State Electricity Regulatory Commission (Conduct of Business) Regulations, 2005 for the modification of the conditions No. 5 and 17 of the NOC issued to the applicant vide Memo No. 738/Opera Garden, Zirakpur/RID-17430 as the same is arbitrary, illegal and against the principles of natural justice as well as anti-welfare and anti-social in nature and is liable to be modified in the interest of justice.

Further, during the pendency of the present application, the respondents may kindly be directed to issue the provisional connections to residents of the Housing Projects of the applicants i. e., Opera Garden, in the interest of justice.

AND

Any other relief which the Commission may deem just and proper in the interest of justice, keeping in view the facts and circumstances of the case may also be granted.

AND

In the matter of:1. Chandigarh Colonisers Pvt. Ltd., SCO No. 36, Sector-3, Panchkula (Haryana), through its Director.

2. Opera Infratech and Developers, SCO No.36, Sector-3, Panchkula. (Haryana), through its Partner.

….Petitioners

Versus

1. Punjab State Power Corporation Ltd. through its Chief Engineer/ Commercial, PSPCL, Patiala, Punjab.
2. Punjab State Power Corporation Ltd. through Additional Superintending Engineer, Supply Division, Zirakpur, District. SAS Nagar, Punjab.
3. Executive Officer, municipal Counsel, Zirakpur, District. SAS Nagar, Punjab.

....Respondents

For Petitioners: Sh. Amit Sharma, Advocate
Sh. Pardeep Bajaj, Advocate

For PSPCL: Er. Iqbal Singh, CE/ARR&TR
Er. Sanjeev Prabhakar, SE/TR-II
Er. VPS Kailay, ASE/TR-5

For MC: None

ORDER

The petitioners have filed the present petition for modification of the conditions no. 5 and 17 of the No Objection Certificate (NOC) issued by Punjab State Power Corporation Ltd. (PSPCL) vide memo no. 738/Opera Garden, Zirakpur /RID-17430 dated 11.12.2017 alleging the same as arbitrary, illegal and against the principles of natural justice as well as anti welfare and anti social in nature and has further prayed for direction to the respondents to issue the provisional connections to residents of the Housing Projects, in the interest of justice.

The petitioners have submitted that they are jointly raising the construction of the Apartment Housing Project with name and style of Opera Gardens at Village Kishanpura, Tehsil Zirakpur,

Distt. SAS Nagar which has been divided into residential flats, commercial sites and common services. As per the housing plan, total load of the project was estimated by PSPCL as 3425KW/3806KVA. The petitioners applied online with the concerned department of PSPCL on 10.03.2017 for issuance of NOC against RID-17430. The respondent department directed the petitioners to submit an undertaking with regard to the status of construction in respect of the commercial area and the same was submitted on 28.11.2017. It was specifically mentioned therein that no planning has been done for the commercial area in the project, therefore, whenever the Commercial Area would be planned in the future, the petitioners shall apply for the revised NOC of the complete project as per the changes. PSPCL issued the NOC to the petitioners vide memo no. 738/Opera Garden, Zirakpur/RID-17430 dated 11.12.2017 with condition no. 5 and 17 as under:

> *"5. The estimated expenditure for layout of electrical LD system of the project shall be of Rs.1,23,35,150/- (Rupees One Crore, twenty three lacs, thirty five thousand, one hundred and fifty only) and is subject to change as per rates prevailing at the time of execution of work. In case of request for energisation of incomplete LD system, the same shall be allowed provided you furnish a Bank Guarantee (BG valid for 5 years) equivalent to 150% of the estimated cost of balance works. This amount of Bank Guarantee shall keep on reducing with the completion of remaining works of the LD system."*

"17. You shall be responsible for any fatal/non-fatal accident during the electrification work of the project inside the site."

Both the above mentioned conditions of NOC are arbitrary. As per the condition no. 5, PSPCL is asking for the huge amount to be deposited as a Bank Guarantee and this figure of 150% is arbitrary and the time period of 5 year is again on the higher side. It is near to impossible to provide Bank Guarantee for 5 years equivalent to 150% of the cost of incomplete work. The builders would never be able to complete their project if they get their money blocked in Bank Guarantee as demanded by PSPCL. The entire project runs into 27 towers. PSPCL has given NOC and estimated cost for Electrical LD system of the entire project including 27 towers and 2 commercial sites as Rs. 1,23,35,150/-. As of now, only 6 towers have been constructed in the entire project. PSPCL has accepted an undertaking from the applicants to the extent that as and when the commercial site is to be constructed, fresh NOC would be sought from PSPCL. As and when there would be a plan to raise construction of the remaining towers in a phased manner, the petitioners would submit fresh undertaking and seek NOC from PSPCL. The condition put up by PSPCL, is arbitrary in nature. The petitioners are ready to furnish Bond or undertaking with respect to applying for revised NOC for completing the incomplete residential project. PSPCL would not suffer any loss and no prejudice would be caused in such like situation and the housing project of the petitioners would keep on surviving. Similarly, condition no. 17 is also not clear. The petitioners are paying for the cost of the work and that includes

cost of equipments and other auxiliary charges and if any loss happens to them due to fatal or non-fatal accidents due to their mistake, then PSPCL should be liable for the same and petitioners have no vicarious liability.

The petition was fixed for hearing on admission on 26.09.2018. After examining the averments made in the petition and considering the submissions made by the Learned Counsel for the petitioners, it emerges that the petitioners seek modification of conditions no. 5 and 17 of the NOC issued by PSPCL vide memo no. 738/ Opera Garden, Zirakpur/RID-17430, being arbitrary. The petition has been filed under Regulation 40(2) of the Punjab State Electricity Regulatory Commission (Conduct of Business) Regulations, 2005, which is not attracted to the facts of the present petition.

The Commission has framed the Punjab State Electricity Regulatory Commission (Electricity Supply Code and Related Matters) Regulations, 2014, in short Supply Code, 2014. The relevant part of Regulation 6.7.1 (c) of these regulations reads as under:

> *"….In case the developer requests for energisation of incomplete LD system, the same shall be allowed provided the developer furnish a Bank Guarantee (BG valid for 5 years) equivalent to 150% of the estimated cost of balance works. This amount of Bank Guarantee shall keep on reducing with the completion of remaining works of LD system. After submission of Bank Guarantee to the satisfaction of licensee, it shall*

be the responsibility of the licensee to release connections to the residents/occupiers of the colony/ complex according to the time frame specified in Regulation 8."

PSPCL is required to comply with the regulations specified by the Commission and condition no. 5 stipulated in the NOC is in compliance of the provisions of Regulations 6.7.1(c) of the Punjab State Electricity Regulatory Commission (Electricity Supply Code and Related Matters) Regulations, 2014 and therefore, the provision of condition no. 5 in the NOC by PSPCL is not arbitrary or illegal or against any Regulations/Rules/Act and does not require any modification as sought by the petitioners.

Regarding condition no. 17 of the NOC, the petitioner failed to quote violation of any provision of Regulations or the Rules or the Act which warrants intervention by this Commission. The petition is devoid of any merit and hence not admitted.

The petition is disposed of accordingly.

-Sd/-	-Sd/-	-Sd/-
(Anjuli Chandra)	**(S.S. Sarna)**	**(Kusumjit Sidhu)**
Member	**Member**	**Chairperson**

Chandigarh
Dated: 11.10.2018