

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

**Petition No. 75 of 2012
Date of Order: 22.02.2013**

In the matter of : Petition in the matter of undue and illegal demand of Rs.34,49,250/- in respect of a connection which was never released; and refusal of authorities to hear the case – violation of Reg. 6.1 and 9.1.1 of E S code 2007.

AND

In the matter of Shri Surinder Kumar Joshi, H.No.1051 B, Sector-16, Panchkula, Pin code-134113

Versus

Punjab State Power Corporation Limited, The Mall,
Patiala

Present: Smt.Romila Dubey, Chairperson
 Shri Virinder Singh, Member
 Shri Gurinderjit Singh, Member

ORDER

This petition has been filed by Shri Surinder Kumar Joshi in the matter of alleged undue and illegal demand of Rs.34,49,250/- in respect of a connection which was never released and refusal of PSPCL authorities to hear the case of violation of Regulations 6.1 and 9.1.1 of Electricity Supply Code, 2007. The petitioner has submitted that he applied for a electricity connection for Aroma Poultry Farm at village Haripur Todi vide A & A Form No.4429 dated 2.9.2009 under MS category. The demand notice was issued by SDO of erstwhile PSEB Handesra vide memo No.877 dated 29.9.2009 and petitioner was directed to deposit a sum of Rs.34,49,250/- on account of erection of a new line and Rs.48,750/- on account of service connection charges.

The petitioner submitted another application for 49.99 KW load under NRS category on 08.01.2010, allegedly on the advice of the respondents. A fresh demand notice was issued and a sum of Rs.1,25,587/- was deposited by the petitioner on 27.04.2010. The connection was released in July 2010. The previous application dated 02.09.2009 was cancelled and ACD deposited was refunded. PSPCL has again raised the demand of Rs.34,49,250/- through a notice vide SDO Handesra memo No.1016 dated 10.10.2012. The petitioner

approached C.E./DS (South) Patiala through a representation dated 18.12.2012 and requested to place his grievance before ZDSC/South for adjudication but the respondents are threatening to disconnect the supply of the petitioner. The petitioner has further submitted that his connection A/C GC 22/5 was checked by Sr XEN, Enforcement, Mohali on 09.03.2011. A case of unauthorized use electricity under Section 126 of the Electricity Act, 2003 was made out and a sum of Rs.66,010/- was got deposited from the petitioner. A sum of Rs.75,574/- was again raised vide SDO Handesra memo No.968 dated 01.10.2012 which was also paid by the petitioner. The petitioner has prayed :

“It is prayed that keeping in view the pathetic position of the petitioner, the undue demand of Rs.34,49,250/- raised against him by the respondents may be set aside in the interest of justice. It is also requested that the respondents may be directed to convert the petitioner’s NRS connection A/C No. GC 22/5 to the appropriate category to which it rightly belongs. The respondents may also be restrained from disconnecting power supply to this NRS connection during the pendency of present petition”.

2. The petition was admitted and PSPCL was directed to file reply by 30.01.2013 with copy to the petitioner vide Order dated 10.01.2013. PSPCL filed reply dated 31.01.2013. The respondent (PSPCL) has submitted that the petitioner had deceived PSPCL and NRS category connection for 49.992 KW in his name was got released by submitting an undertaking that he would set up a Godown for business purpose. On checking by Sr.XEN Enforcement, it was found that he was running a Poultry Farm instead of Godown. So treating it a case of UUE under Section 126 of the Electricity Act, 2003, action was taken against him. Other facts of the petition have been admitted by the respondent. PSPCL has further submitted that the petitioner was fully aware of the fact that for availing a MS category connection for Poultry Farm, he had to deposit the charges of Rs.34,49,250/- on account of extra service line. He resorted to submission of a wrong affidavit and tried to deceive PSPCL. In view of these facts, the petition be dismissed with cost.

3. The petitioner and respondent were heard on 05.02.2013. After hearing, the Commission decided to close further hearing and directed the petitioner and respondent to file written submissions by 12.02.2013 vide Order dated 07.02.2013. The Order was reserved. The petitioner has filed written arguments on 11.02.2013 and PSPCL has also filed written submissions vide C.E./ARR & TR memo No.5254 dated 14.02.2013.

4. From the written submissions of the petitioner and the respondent, the Commission observes that an electric connection of 64.884 KW under MS category, applied on 2.9.2009 by the petitioner was not availed due to heavy service connection charges of Rs.34,49,250/-. Due to non deposit of service connection charges, the application of the petitioner was cancelled and the security amount deposited was refunded by the respondent to the petitioner after deducting the usual processing charges. Thereafter, the petitioner on 8.1.2010 applied afresh for a load of 49.99 KW under NRS category for setting up a Godown at the same place, which was released in July, 2010. However, while checking this connection in March, 2011, by Sr .Xen Enforcement, Mohali, it was found that the connection released under NRS category is being used for industrial purposes and a case of unauthorized use of electricity was made out and the penalty levied by the respondent has been paid by the petitioner.

The Commission further observes that for assessment of electricity charges in case of unauthorized use, following provisions are made in the Annexure-8 of Electricity Supply Code, approved by the Commission: -

“(1) Assessment of electricity charges in the case of unauthorized use of electricity under Section 126 of the Act.

(a) *Where it is concluded that unauthorized use of electricity has taken place, the assessment shall be made for the entire period during which such unauthorized use has been continuing. If, however, in a case where the period of unauthorized use cannot be ascertained, such period shall be limited to a period of twelve months immediately preceding the date of inspection.*

(i) *The consumption of electricity in such case will be computed on the basis of the meter reading.*

(ii) *If, the consumption of electricity can not be computed on the basis of meter reading, then the same will be computed on the basis of the LDHF formula as detailed in para 4 below.*

- (b) *The consumer will, on the basis of consumption of electricity computed as above, be liable to pay electricity charges at a rate equal to twice the tariff applicable for the relevant category in which the service should have been classified.*
- (c) *Electricity charges in all cases of unauthorized use of electricity will continue to be levied as in sub-para (b) above till the cause of unauthorized use of electricity is rectified.”*

Further Regulation 6.1 of the Electricity Supply Code, 2007 provides as under :-

- “6.1 The Licensee, will after receipt of the application, inform the applicant through a notice henceforth called Demand Notice which will specify ;
- (a) Security (works) required to be deposited by the applicant under Regulation 19 of these Regulations;
 - (b) Other terms required to be accepted by the applicant under Regulation 12 of these Regulations;
 - (c) Submission of NOC by the applicant, as per statutory requirement, wherever applicable;
 - (d) Submission of electrical contractor’s test report by the applicant;
 - (e) Any other compliance to be met by the applicant.

The terms and conditions specified in the Demand Notice once issued will not be altered except when necessitated by change in applicable laws”.

The demand notice was issued for NRS connection and a sum of Rs.1,25,587/- was got deposited on 27.04.2010 on this account and connection was released accordingly in July 2010. The Commission, therefore, observes that raising a demand of Rs.34,49,250/- for release of MS connection now, tantamounts to change in the condition of demand notice in violation of Reg.6.1 of Electricity Supply Code, 2007.

It is quite clear that the provisions of Supply Code for unauthorized use of electricity cannot be further extended to Service Connection Charges. The estimate framed by the respondent for Rs. 34,49,250/- for release of MS connection, which was not availed by the petitioner has no relevance with the release of NRS connection. Had the petitioner in the first instance itself applied for an NRS connection then the figure of Rs.34,49,250/- would not have appeared. In that case also if the NRS connection would have been found to be running for industrial purpose, it would have been a case of unauthorized use of electricity only.

The Commission observes that the demand of Rs.34,49,250/- raised vide AE/DS, PSPCL, Handesra memo No.1016 dated 10.10.2012 (Annexure-B of the Petition) is illegal and decides to quash the same. The petitioner may continue to be charged as per the provisions made in the Supply Code and he may apply for change in category of electric connection with the concerned office which shall be dealt with as per rules and regulations of the Utility (PSPCL).

The petition is disposed of accordingly.

Sd/-
(Gurinderjit Singh)
Member

Sd/-
(Virinder Singh)
Member

Sd/-
(Romila Dubey)
Chairperson

Chandigarh
Dated: 22.02.2013