

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

**Petition No. 46 of 2017 &
I.A. No.03 of 2018
Date of hearing: 05.09.2018
Date of Order: 25.09.2018**

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

In the matter of: Petition under Section 142 and other applicable sections of the Electricity Act 2003, applicable provisions of the PSPCL instruction manual and supply code of 2014, for issuance of appropriate directions to the Respondent No.4, the licensee, to take appropriate action against the Respondents No.1 to 3 for gross violation of various provisions of the Act.

AND

In the matter of: Shop Owners Welfare Association, House No.3157, Sector-37-D, Chandigarh.
.... Petitioner

Versus

1. Paras Buildtech India P.Ltd., 11th Floor, Paras Twin Towers (Tower) (B), Golf Course Road, Sector 54, Gurgaon – 122002;
2. Yogesh Mittal C/o Paras Buildtech India P.Ltd., 11th Floor, Paras Twin Towers (Tower) (B), Golf Course Road, Sector 54, Gurgaon – 122002;
3. Paras RE Facilities, 11th Floor, Paras Twin Towers (Tower) (B), Golf Course Road, Sector 54, Gurgaon – 122002;

4. Punjab State Power Corporation Limited, The Mall, Patiala.

.... Respondents

ORDER

The petitioner, Shop Owners Welfare Association, House No.3157, Sector- 37-D, Chandigarh has filed the present petition submitting that the members of the Association have purchased shops of different sizes, sold, built and developed by the respondent no. 1 Paras Buildtech India Pvt. Ltd. The respondent no. 1 is left with no ownership rights in the shopping mall and the entire authority to manage the affairs of the building and its common areas including supply and distribution electricity, rests with the Petitioner Association or its members. The respondent no.1 has no authority under the provisions of the Electricity Act, 2003 or the Instruction Manual or the Electricity Supply Code to apply for electricity connection as a bulk consumer nor does it has any authority to depute any individual such as respondent no. 2 to apply for a connection for bulk supply of electricity for further distribution to individual shop owners at rates, timing and regularity of its own choice in complete violation of the provisions of the Electricity Act, 2003, or the Instruction Manual of the Electricity Supply Code. The respondent no.1 has appointed some maintenance agency of its own to look after the management of common area facilities of the shopping complex and the Respondent No.3 in turn is issuing bills to individual shop owners at the rates much more than those prescribed by the Tariff Code or any provisions of the Electricity Act. The petitioner, referring to Section 60 of the Electricity Act, 2003, Para 36.1 and 49 of the

Instruction Manual, has further submitted that the right to supply for electricity, its distribution and management is the absolute right of either the owners or the association of the owners of various units/ apartments/ shops and that the developer is only entitled to this right where the ownership of the building rests solely with the developer with further induction of tenants at his own wish. PSPCL is acting in collusion with the BS Consumers and further denying independent electricity connections to the shop owners citing a pre existing collective load. It has been further submitted by the petitioner that the respondent no. 3 is raising bills to consumers without it being a licensee. The bills are raised at rates which are not as per the yearly tariff order of the Commission. The Electricity Supply is deliberately disrupted to engage the backup generator supply at an exorbitant rate. The meters have never been audited or checked by PSPCL. The subsidy as well as the discount on BS is not being passed to the end users and illegal electricity connections have been provided to the shops in the common areas. The petitioner has prayed for directions as under:-

- Respondent No. 1 to 3 be divested of their authority to continue as consumers of bulk electricity supply for the shopping complex in question, and the petitioner association be treated as a direct consumer of electricity supply from the licensee, or in the alternative individual electricity meters be directly granted to shop owners.
- Initiation of action under Section 142 of the Electricity Act, 2003 for contravening the directions of the Commission issued vide Order dated 09.06.2015 passed in Suo-Moto Petition No. 61 of 2014 regarding

Single Point Supply to Residential Colonies / Building Complexes / Shopping Malls / Commercial Complexes / Industrial Estates and further in the Petition No. 76 of 2016 vide order dated 15.06.2017.

- Issuing directions to PSPCL to install independent Electricity Meters to the Members of the Association of Shop Owners of Paras Down Town Square, Zirakpur being presently denied citing the collective Load for the premises.
- The Respondent 1-3 be restrained from disconnecting Electricity Supply of the Owners/ Retailers and further restrain them from threatening / coercing the Owners / Retailers of the Complex to disconnect Electricity Connection and stop relating the same to the illegal CAM Bills being raised by them.

2. The petition was admitted vide Order dated 18.09.2017 directing the respondents to file their respective replies by 13.10.2017 and rejoinder, if any, by 03.11.2017. The petition was fixed for arguments on 15.11.2017. In compliance of the Order dated 18.09.2017, PSPCL filed reply vide memo no. 5353 dated 31.10.2017. The Commission directed PSPCL, vide Order dated 27.11.2017, to check up the records in view of its submissions made through memo no. 450/51 dated 07.06.2017 in petition no. 76 of 2016 (suo-motu), wherein it was reported that a franchisee agreement has been signed between PSPCL and Paras Buildtech India Pvt. Ltd. PSPCL was directed to file detailed reply to all the issues raised in the petition with a copy to the petitioner and other respondents. In compliance of the Order dated 27.11.2017,

PSPCL filed its reply vide memo. no. 5884 dated 08.12.2017. It has been submitted, among other submissions, that the petitioner association has never approached PSPCL with respect to redressal of their grievances and in the absence of such representation / complaints, no action is required to be taken by PSPCL. It has been further submitted that PSPCL has no objection in case the franchisee hand over the distribution system to the petitioner association. Vide Order dated 03.01.2018, the Commission directed PSPCL to explain how the franchisee is being allowed to charge electricity charges higher than the rates approved by the Commission and why no action has been taken in the last 9 months against the franchisee. PSPCL was directed to check and report whether the meters have been installed as per Central Electricity Authority Metering Regulations or not. PSPCL was also directed to check and report whether dual meters have been installed to record the backup supply separately by the franchisee as per the terms & conditions of the Franchisee Agreement. PSPCL was directed to ensure that no extra charges, other than approved by the Commission, are recovered from the consumers of the franchisee area, further, directing to ensure that electric supply to any consumer is not disconnected except due to non-payment of energy bill as per regulation 32 of the Supply Code, 2014. The petitioner vide application dated 22.01.2018 submitted a copy of the Order dated 29.12.2017 passed by ACA-cum-Appellate Authority, GMADA to the effect that GMADA has ordered handing over of management of the Shopping Complex to the petitioner. In compliance of the Order dated 03.01.2018, PSPCL filed reply vide memo no. 6707 dated 01.02.2018. During hearing on 07.02.2018, the counsel for respondents No. 1 to 3 filed

reply by way of preliminary submissions. Vide Order dated 13.02.2018, PSPCL was directed to ensure that the terms and conditions of the Franchisee Agreement are completed and complied with within one month failing which PSPCL may proceed further to take action as per law. PSPCL was further directed to ensure that the electricity supply to any consumer in franchisee area is not disconnected except due to nonpayment of energy bill. The petitioner filed rejoinder dated 26.02.2018 to the written statement of respondents no. 1 to 3. The petitioner filed an IA No. 03 of 2018 dated 12.03.2018 for early hearing of the petition and taking appropriate action against the respondents under Section 142 of the Electricity Act, 2003. PSPCL filed reply to the IA No. 03 of 2018 vide memo no. 6778 dated 09.04.2018 submitting that PSPCL is obeying the Orders of the Commission in its true letter and spirit and there is no violation of any nature whatsoever. The members of the association are not ready to sign the A & A forms with the franchisee, which is mandatory for becoming consumers of PSPCL. PSPCL has no objection to execute the Franchisee Agreement either with the petitioner association or with the respondents no. 1 to 3 in the interest of justice and fair play.

3. The Commission during the hearing on 11.04.2018 directed PSPCL to visit the site and submit its report regarding compliance of the Orders of the Commission. PSPCL submitted its report vide memo no. 2408 dated 11.04.2018. Vide Order dated 13.04.2018, the next date of hearing was fixed as 25.04.2018.

Respondents no. 1 to 3 submitted reply in IA no. 03 of 2018 during hearing of the petition on 25.04.2018. On the specific query of the Commission, the officers of PSPCL confirmed that Paras

Buildtech has fulfilled the conditions of the Franchisee Agreement but the shopowners are not signing the A & A forms. PSPCL was directed to re-examine the issues raised by the petitioner and respondents No. 2 and 3 during hearing and come out with a solution within one month. The petition was fixed for hearing on 30.05.2018. In compliance of the Order dated 04.05.2018, PSPCL filed reply vide memo no. 6996 dated 29.05.2018. The petition was taken up for hearing on 30.05.2018 and vide Order dated 04.06.2018, the Commission directed that all the clauses & terms and conditions mentioned in the Franchisee Agreement including wiring and metering for PSPCL supply and DG supply are to be strictly complied with, by both PSPCL and the Franchisee. As regards supply of electricity in the common area(s), PSPCL shall ensure that necessary system for metering the energy use for the common area(s) is in place by the Franchisee. The Franchisee shall ensure that no other charges are included while recovering electricity charges for common areas. The Commission further observed that the members of the petitioner association are required to sign the A & A forms as per the requirements of PSPCL for supply of electricity.

4. The petition was fixed for arguments on 25.07.2018 wherein the Ld. Counsel for the petitioner requested for adjournment for filing some information pertaining to the matter in the petition. The petition was fixed for hearing on 05.09.2018. Petitioner association vide letter dated 23.08.2018 filed an application intimating that Paras Buildtech India Pvt. Ltd. has handed over the physical possession and management of the entire shopping complex along with all infrastructural facilities and PSPCL be directed to

now treat the petitioner association as a Franchisee. The petitioner association also enclosed a letter dated 25.07.2018 from Paras Buildtech India Pvt. Ltd. to the members of Shop Owners Association regarding handover of maintenance and control of the Shopping Complex.

Decision of the Commission

5. The Commission notes that the petitioner prayed for divesting the respondents no. 1 to 3 of their authority to continue as consumers of bulk electricity supply for the shopping complex in question and to treat the petitioner association as a direct consumer of electricity supply. The petitioner further requested to restrain the said respondents from disconnecting the supply of the owners.

The Commission further notes that during the hearing on 05.09.2018, the counsel for the respondents submitted that the possession of the commercial complex has been handed over to the petitioner association and therefore, the relief sought in the petition stands granted rendering the petition infructuous. Accordingly, in view of the above, no further directions are required to be passed. The present petition having become infructuous, is dismissed.

The petition is disposed of accordingly.

Sd/-
(Anjali Chandra)
Member

Sd/-
(S.S. Sarna)
Member

Sd/-
(Kusumjit Sidhu)
Chairperson

Chandigarh
Dated: 25.09.2018