

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

Petition No. 35 of 2023
alongwith IA No. 09 of 2023
Date of Order: 09.08.2023

Petition under regulation 68, 69, 70, 71 and 72 and other relevant provisions of Chapter XIII of the Conduct of Business Regulations 2005 as amended up to date, Regulations 44, 45, 46 and 47 of Supply Code 2014 as amended up to date and other relevant provisions of the Electricity act, 2003, for clarification regarding applicability of Domestic Supply Tariff to the Home Stay/BnB Unit of the Petitioner being run under the Punjab Bread and Breakfast Scheme, 2013 and 2021, including the DO letter dated 03.05.2023, which provides for applicability of the Domestic Supply tariff to the BnB's/Home Stays and or granting any other relief which this Hon'ble Commission deems fit in the facts and circumstances of the present case.

And

In the Matter of : Mr. Anil Gupta, S/o Sh. Prem Nath Gupta, R/o HJ-31, Housing Board Colony BRS Nagar, Ludhiana -141012.

.....Petitioner

Versus

1. Punjab State Power Corporation Ltd. (PSPCL), through its Chairman Managing Director, The Mall, Patiala, Punjab.
2. Chief Engineer/Distribution Circle, PSPCL, Ludhiana, Punjab

.....Respondents

With

Petition No. 43 of 2023

1. Mr.Anoop Chhabra (Owner of 4N Home Stay), S/o Narendar Chhabra, R/o House no. 899/4,Gali Tarkhana, Bazar Paprawala Chownk Darbar Sahib, Amritsar, Distt. Amritsar.
2. Mr.Suraj Prakash, (Owner of CHIRAG Home Stay) S/o Prakash Chand, R/o H No. 1035, Gali Bouli Assa Singh, Chowk Lakkad Mandi, Jallianwala Bagh, Amritsar -I, Amritsar G.P.O, Distt. Amritsar (BnB license on the name of Rishi Prakash).

3. Mr.Iqbal Singh (Owner of AVAAS Bed & Breakfast), S/o Balwant Singh, R/o H No. 1729/4, Gali Tarkhan Wali, Chowk Golden Temple, Jallianwala Bagh, Amritsar -I, Distt. Amritsar.
4. Mr. Rakesh Seth (Owner of SETH RESIDENCY), S/o Yudishter Seth, R/o H No. 1425, Gali Nimm Wali, Chowk Bijli Hall Bazar, Amritsar -I, Distt. Amritsar.
5. Mr.Charanjit Singh Banga (Owner of RUHANIYAT), S/o Mohinder Singh, R/o H No. 110, Green Avenue, Amritsar -I, Distt. Amritsar.
6. Mr. Manohar Singh (Owner of AGAM Home Stay), S/o Lal Singh, R/o H No. 531 East Mohan Nagar, I/S Sultanwind Gate, Amritsar-I, Distt. Amritsar.
7. Mr.Harjinder Singh (Owner of YUVRAJ RESIDENCY Bed & Breakfast), S/o Joginder Singh, R/o H No. 655/4, Near Golden Temple, Bazar Kathiyan, Amritsar -I, Distt. Amritsar.
8. Mr.Gurcharan Singh (Owner of LASER TOWER Home Stay), S/o Parkash Singh, R/o H No. 15-A, New Dashmesh Avenue, P.O. Khalsa College, Amritsar -I, Distt. Amritsar.
9. Mr.Balwinder Singh (Owner of OSAHAN PARADISE HOMESTAY), S/o Charan Singh, R/o H No. 1063/2, Old Lakkar Mandi, Jallianwala Bagh, Amritsar -I, Distt. Amritsar.

VERSUS

1. Punjab State Power Corporation Ltd. (PSPCL), through its Chairman and Managing Director, The Mall, Patiala, Punjab.
2. Chief Engineer/Distribution Circle, PSPCL, Amritsar, Punjab.

..... Respondents

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

Petitioners: Sh. Aditya Grover, Advocate (35 of 2023)
Sh. Dilpreet Singh Gandhi (43 of 2023)

PSPCL: Ms. Harmohan Kaur, CE/ARR&TR
Sh. Jiwan Kumar Jindal, Sr.Xen
Sh. Daljit Singh, ASE
Sh. Vishal Rai, Assistant

ORDER

1.0 The Petitioners have filed petition No. 35 of 2023 and 43 of 2023 seeking clarification regarding applicability of Domestic Supply tariff to the Home stay/BnB unit of the Petitioners being run under the Punjab Bread and Breakfast Scheme, 2013 (Scheme 2013) and Bed and Breakfast/Homestay Scheme, 2021 (Scheme 2021), including the DO letter dated 03.05.2023 which provides for applicability of Domestic Supply tariff to the BnB's/Home stays and for granting any other relief which the Commission deems fit. The petitions were fixed for hearing on admission on 20.07.2023 and notice was issued to PSPCL in both the petitions. After hearing the parties, Order was reserved. Facts of the Petition No. 35 of 2023 and the Petition No. 43 of 2023 are identical and involve a similar issue. Thus both the Petitions are being disposed of through this common order.

Submissions of the Petitioners in brief.

1.1 The Petitioners have submitted that the Punjab Govt. launched the Bed and Breakfast scheme (BnB) vide notification dated 07.08.2013 which was further amended on 05.03.2021. The basic aim of the scheme is to provide clean and affordable places for the international and domestic tourists offering an opportunity to acquaint themselves with the cultural heritage of Punjab. The local residents may provide accommodation to the tourists as per the policy. The policy clearly states that the BnB unit must be a private house and the registration shall be given when the owner physically resides in the same property. The Punjab Tourism Department after verifying all the norms granted the certificates/licenses to the petitioners for BnB. The scheme promised benefit of energy and water tariff at domestic rates. The petitioners were running home stay/BnB providing comfortable accommodation to the tourists leading to contribution in the promotion of tourism and culture of Punjab.

1.2 The petitioner are fulfilling all the statutory obligations such as property tax etc. and had been maintaining a domestic supply connection and were being charged accordingly. The Director Punjab Heritage and Tourism Promotion Board Chandigarh, vide letter No. 1726-28 dated 13.07.2022 addressed to Chief Administrator GMADA also clarified that home stay/BnB scheme is only for residential houses and it should be charged at Domestic Tariff. Further, S. Gurkirat Kirpal Singh IAS, Secretary Govt. of Punjab, Department of Tourism and Cultural Affairs, issued a letter to the Chairman, PSPCL, vide No. PHTBP/2023/1222 clearly mentioning that Home Stay/BnB units should continue to be charged at Domestic Tariff and that charging commercial rates of electricity shall lead to closure of such units which shall adversely affect tourism and objectives of the scheme. Although the BnB scheme 2013 categorically provided that domestic tariff shall be charged for the premises where the Home Stay is being run, PSPCL however, carried out an enforcement checking and made out a case of UUE on the purported premises that home stay being run from the premises should have a NRS connection instead of a Domestic Connection.

1.3 The grievance of the Petitioners is that despite the Punjab Bed and Breakfast scheme 2013 and subsequent scheme 2021 and the DO letter dated 03.05.2023 categorically providing that Home Stay/BnB shall be charged domestic supply tariff, PSPCL has been charging NRS tariff, forcing the petitioners to convert the earlier DS Connection to NRS Connection. The petitioners have sought clarification on the issue of running the BnB under the Domestic Supply and for setting aside the order imposing a penalty on the grounds that:-

- a) Both the departments are under the Punjab Govt. but there is miscommunication or misunderstanding between the departments because of which the petitioners are suffering.

- b) There is a policy under which the licenses were issued to the petitioners and now some other departments under the same Govt. cannot object on the running of those licenses and therefore clarification is required for the usage of residential house for BnB on domestic supply.
- c) The action of PSPCL imposing NRS tariff on the Home stays/BnB in the State of Punjab is totally illegal, arbitrary, unjust, unwarranted and unsustainable in the eyes of law. Various other states like Madhya Pradesh, Himachal Pradesh and Delhi are charging domestic rates of electricity from the registered home stay units. PSPCL in the garb of schedule of tariff issued by the Commission, which does not specifically contains the imposition of type of tariff to be levied on the Home Stays/BnB units in the state of Punjab, is wrongly/unilaterally imposing NRS tariff on the owner of the Home Stays/BnB units.
- d) PSPCL has failed to demonstrate as to what has prompted it to impose the UUE/NRS charges upon the home stay/BnB units in Punjab, especially those units which were being charged at domestic tariff earlier by PSPCL. The Home Stay being run by the petitioners does not fall under the commercial activity category and qualifies to be a domestic unit and thus only the domestic tariff should be levied.

2. **Observations and Decision of the Commission.**

- i. The Commission has examined the submissions made by the Petitioner, and has also heard the Ld. Counsel for the Petitioner. The Petitioner has sought clarification regarding applicability of Domestic Supply tariff to the Home Stay/BnB Unit of the Petitioner being run under the Punjab Bread and Breakfast Scheme, 2013 and 2021. Schedule SV.1.1 of the Schedule of Tariff, in the Tariff Order of FY 2023-24 provides as under:

“Non-residential premises such as business houses, cinemas, clubs, offices, hotels/motels, marriage palaces, hot mix/ready mix plants, departmental stores, shops, guest houses, restaurants for lights, fans, pumping set, air conditioning units/plants, lifts, welding sets, small lathes, electric drills, heaters etc.;

Further, Schedule SV11.1 of the Schedule of Tariff, of the Tariff Order of FY 2023-24 provides as under:

“Where a portion of the residential premises is used regularly for the conduct of business, the supply in that portion shall be separately metered under separate connection and billed under Schedule NRS.”

As per rule of literal interpretation the words used in the text are to be given or interpreted in their natural or ordinary meaning. After the interpretation, if the meaning is completely clear and unambiguous then the effect shall be given to that provision of a statute. From the perusal of above provision of Schedule of Tariff, it is explicit that any commercial activity being conducted in residential premises needs to be billed under NRS Schedule. This provision is continuing in the tariff Order since more than five years. Home Stay/BnB Units are of a commercial nature, similar to hotels/motels, guest houses etc. and the residential premises are regularly being used for conducting commercial activities. It distinctly falls under the NRS category and as such no further clarification is required in this regard.

- ii. The Commission further notes that PSPCL has issued order of assessment for UUE imposing charges of Rs. 5,77,884/-under Section 126 of the Electricity Act, 2003 vide communication dated 21.04.2023. In this regard the petitioner has already preferred an appeal under Section 127 before the appellate authority against the order dated 21.04.2023 which will be decided on its merits In case of any further

grievance in this regard the Petitioner is at liberty to approach the competent court.

- iii. The Petitioner has stated that as per Punjab Bed and Breakfast Scheme 2013, of the State of Punjab through Department of Tourism and Cultural Affairs the Energy and water tariff shall be levied at domestic rates as per the Punjab Industrial Policy 2009. The Petitioner has also relied upon a DO letter dated 03.05.2023 issued by the Secretary, Government of Punjab, Department of Tourism and Cultural affairs to PSPCL with a request to continue charging of Domestic tariff to BnB units.. PSPCL in its response to the above letter has intimated Secretary, Government of Punjab that as per Tariff Order of FY 2023-24, tariff for Hotels/Motels, Guest Houses falls under NRS tariff category. Furthermore, determination of tariff, rebate or surcharge to any category comes under the purview of the Commission as per the Electricity Act, 2003. It is pointed out that Section 62(3) of the Electricity Act, 2003 provides that the Commission, while determining the tariff under the Act, shall not show undue preference to any consumer of electricity but may differentiate according to the consumer's load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required. Further, Section 65 of the Electricity Act 2003 provides that if the State Government wishes to grant of any subsidy to any consumer or class of consumers in the tariff determined by the State Commission under section 62, the State Government shall pay the subsidy in advance and provides that no such direction of the State Government shall be operative if the payment is not made in accordance with the provisions contained in this section and the tariff fixed by State Commission shall

be applicable from the date of issue of orders by the Commission in this regard.

The Commission is of the view that charging lower tariff (domestic tariff) from NRS category of consumers as requested by the Petitioner tantamounts to subsidy. Since, as per Section 65, grant of subsidy is the prerogative of the State Government, the Petitioner is at liberty to take up the matter with appropriate authority in this regard.

In Petition No. 43 of 2023, the Petitioners have made an additional/second prayer to stay the operation of the impugned order/s vide which the penalty is imposed on the Petitioners without considering the policy and the category of work done in the residential houses by the Petitioners. Qua this second prayer of the Petitioners, the Commission notes that PSPCL has issued orders of assessment for UUE under Section 126 of the Electricity Act, 2003 to the Petitioners. As such the Petitioners are at liberty to approach the Appellate Authority for the redressal of their grievance under Section 127 of the Electricity Act 2003.

The petitions are disposed of in light of the above observations.

Sd/-
(Paramjeet Singh)
Member

Sd/-
(Viswajeet Khanna)
Chairperson

Chandigarh

Dated: **09.08.2023**