

**COURT OF THE LOK PAL (OMBUDSMAN),  
ELECTRICITY, PUNJAB,  
PLOT NO. A-2, INDUSTRIAL AREA, PHASE-1,  
S.A.S. NAGAR (MOHALI).**

**(Constituted under Sub Section (6) of Section 42 of  
Electricity Act, 2003)**

**APPEAL No. 17/2024**

**Date of Registration : 09.08.2024**  
**Date of Hearing : 04.09.2024, 19.09.2024,  
25.09.2024, 10.10.2024,  
23.10.2024**  
**Date of Order : 07.11.2024**

**Before:**

**Er. Anjali Chandra,  
Lokpal (Ombudsman), Electricity, Punjab.**

**In the Matter of:**

M/s. Bharat Petroleum Corporation Ltd.,  
LPG Bottling Plant, Village Alamgir,  
Lalru.

**Contract Account Number:Z23LL0200088 (LS)**  
...Appellant

Versus

Addl. Superintending Engineer,  
DS Division, PSPCL,  
Lalru.

...Respondent

**Present For:**

Appellant : Sh. Pankaj Rathore,  
Appellant's Representative.

Respondent : Er. Mandeep Kumar,  
Addl. Superintending Engineer,  
DS Division, PSPCL,  
Lalru.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 27.06.2024 of the Corporate Consumer Grievances Redressal Forum, Ludhiana (Corporate Forum) in Case No. CF-096/2024, deciding that:

*“Respondent is directed to get the clarification from the o/o EIC/Commercial, PSPCL, Patiala/competent authority regarding the issue that whether the work/operations being undertaken at the petitioner’s premises/LPG bottling plant, is to be considered as manufacturing process or not in context of CC 31/2021 dated 06.07.2021, within two months and deal the present dispute accordingly.”*

## **2. Registration of the Appeal**

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 09.08.2024 i.e. within the period of thirty days of receipt of the decision dated 27.06.2024 of the CCGRF, Ludhiana in Case No. CF-096/2024 received by the Appellant on 11.07.2024. The Appellant had deposited the requisite 40% of the disputed amount. Therefore, the Appeal was registered on 09.08.2024 and copy of the same was sent to the Addl. SE/ DS Division, PSPCL, Lalru for sending written reply/ parawise comments with a copy to the office of the CCGRF, Ludhiana under intimation to the

Appellant vide letter nos. 443-445/OEP/A-17/2024 dated 09.08.2024.

### **3. Proceedings**

With a view to adjudicate the dispute, a hearing was fixed in this Court on 04.09.2024 and intimation to this effect was sent to both the parties vide letter nos. 471-72/OEP/A-17/2024 dated 29.08.2024. As scheduled, the hearing was held in this Court on 04.09.2024 and arguments of both the parties were heard. This Court directed the Respondent to get the clarification from the o/o EIC/Commercial, PSPCL, Patiala as per the decision of the Corporate Forum & immediately implement it. The next date of hearing was fixed for 19.09.2024. An intimation to this effect alongwith the copy of proceedings dated 04.09.2024 were sent to both the parties vide letter nos. 492-93/OEP/A-17/2024 dated 04.09.2024.

As scheduled, the hearing was held in this Court on 19.09.2024. The Respondent submitted Memo No. 4467 dated 18.09.2024, which was taken on record. A copy of the same was handed over to the Appellant's Representative. The Respondent submitted that clarification had been sought from the O/o GM/DIC, Mohali vide Memo No. 2671 dated 04.06.2024 & 3893 dated 12.08.2024. They have further put up the case to

Director/ Industries & Commerce, Punjab vide their letter no. 5053 dated 19.06.2024 & 6764 dated 13.08.2024 for clarification. The clarification from the office of Director/ Industries & Commerce, Punjab was awaited. This Court directed both the Respondent as well as Applicant to get the clarification in this regard immediately. The next date of hearing was fixed for 25.09.2024. An intimation to this effect alongwith the copy of proceedings dated 19.09.2024 were sent to both the parties vide letter nos. 528-29/OEP/A-17/2024 dated 19.09.2024.

As scheduled, the hearing was held in this Court on 25.09.2024. The Appellant informed this Court that the clarification, whether the operations being undertaken at its premises/LPG bottling plant is to be considered as manufacturing process or not, is under consideration of the office of Director/ Industries & Commerce, Punjab & requested for two weeks time. This Court allowed the same. The next date of hearing was fixed for 10.10.2024. An intimation to this effect alongwith the copy of proceedings dated 25.09.2024 were sent to both the parties vide letter nos. 537-38/OEP/A-17/2024 dated 25.09.2024.

As scheduled, the hearing was held in this Court on 10.10.2024. The Appellant's Representative requested for some more time.

This Court allowed a week's time, but clarified that no further adjournments would be given. Copy of proceedings dated 10.10.2024 were sent to both the parties vide letter nos. 578-79/OEP/A-17/2024 dated 10.10.2024. The next date of hearing was fixed for 23.10.2024 and intimation to this effect was sent to both the parties vide letter nos. 591-92/OEP/A-17/2024 dated 22.10.2024.

As scheduled, the hearing was held in this Court on 23.10.2024. The Respondent was present but nobody appeared on behalf of the Appellant. On contacting telephonically, the Appellant's Representative told that there was no further development. Therefore, the case was closed for the pronouncement of the orders.

#### **4. Submissions made by the Appellant and the Respondent**

Before undertaking analysis of the case, it is necessary to go through written submissions made by the Appellant and reply of the Respondent as well as oral deliberations made by the Appellant and the Respondent alongwith material brought on record by both the parties.



**(A) Submissions of the Appellant**

**(a) Submissions made in the Appeal**

The Appellant made the following submissions in its Appeal for consideration of this Court:-

- (i) The Appellant was having a LS Category Connection bearing A/c no. Z23LL0200088 with Sanctioned Load/ CD of 1290 kW/ 700 kVA under DS Division, PSPCL, Lalru in its name.
- (ii) The Appellant's LPG Bottling Plant at Lalru was involved in bulk LPG Storage (highly inflammable liquefied petroleum gases), manufacturing of Domestic & Commercial type of LPG Cylinders with sealing and quality control activities, dispatch of packed LPG Cylinders, dispatch of bulk LPG tankers, unloading of bulk LPG through rail rakes & hydrotesting & painting of Due for Pressure testing cylinders.
- (iii) The Appellant received Commercial Circular No. 31/2021 dated 06.07.2021 from the PSPCL regarding withdrawal of Industrial Subsidy being given to Industrial Category units which were not into manufacturing of industrial products. The PSPCL withdrew the Appellant's Industrial Subsidy w.e.f. 17.06.2021.
- (iv) The Appellant replied to the PSPCL, Lalru office vide reference their earlier communications dated 21.10.2022, 04.11.2022, 18.01.2023, 24.03.2023, 30.10.2023 and 22.02.2024, whereby the

Appellant had clarified that bottling operation of LPG was a manufacturing process and thus entitled for Industrial Subsidy.

- (v) Despite of several requests of the Appellant on the above matter, it had not been resolved yet. The Appellant's PSPCL account showed an outstanding amount of ₹ 41,37,002/-, which should have been paid to the Appellant by settled in its account.
- (vi) The Appellant filed the grievance before the Corporate Forum, Ludhiana vide Case No. CF-096/2024 dated 14.05.2024. Then it filed the present Appeal with this Court.
- (vii) The Appellant requested this Court to kindly look into this matter and help it in reinstating Industrial Subsidy to Lalru, LPG Plant as the matter was pending since more than two years.

**(b) Submission during hearing**

During hearings on 04.09.2024, 19.09.2024, 25.09.2024 & 10.10.2024, the Appellant's Representatives reiterated the submissions made in the Appeal and prayed to allow the same.

**(B) Submissions of the Respondent**

**(a) Submissions in written reply**

The Respondent submitted the following written reply for consideration of this Court:-

- (i) The present Appeal had been filed by M/s. Bharat Petroleum Corporation Ltd., A/c No. Z23LL0200088 against the decision of

the Corporate Forum, Ludhiana in Case No. CF-096/2024. The Appellant was having Industrial Connection (LS Category) for an LPG bottling plant and was a Central PSU with Sanctioned load/ Contract Demand of 1290 kW/ 700 kVA under DS Sub Division, PSPCL, Lalru.

- (ii) The instructions were issued by the O/o CE/Commercial, PSPCL, Patiala vide CC No. 31/2021, regarding withdrawal of industrial subsidy being given to Central /State/PSU/PSPCL/BBMB & Govt. Water Supply connections which were having electricity connections under Industrial Category Tariff but are not into manufacturing process. In view of this Commercial Circular, Industrial subsidy being given to the Appellant had been withdrawn from 17.06.2021 by the Centralized Billing Cell, Ludhiana and an amount of ₹ 30,43,102/- for already given subsidy was charged as Sundry Charges in bill issued to the Appellant in the month of 09/2022.
- (iii) The Appellant did not agree to the withdrawal of industrial subsidy and filed the Case in the Corporate Forum, Ludhiana. The Forum, in the proceedings, directed the Respondent to get the clarification from the O/o General Manager, Deptt. of Industry and Commerce, Mohali and EIC/Commercial, PSPCL, Patiala.



- (iv) Accordingly, the clarification was sought from the Office of GM/DIC, Mohali via the Respondent's office letter no. 2671 dated 04.06.2024 and 3873 dated 12.08.2024 and via earlier letters of the AEE/ Sub Division, Lalru. In the reply of these letters, Office of GM/DIC, Mohali had checked the bottling plant of the Appellant and asked documents of the Appellant's unit vide their letter no. 3052 dated 05.06.2024 which were provided to them by the Office of AEE/Sub Division, Lalru vide their office letter no. 1076 dated 07.06.2024. However, they had forwarded the Case to Director/Industries & Commerce, Punjab, Chandigarh vide their letter no. 5053 dated 19.06.2024 and letter no. 6764 dated 13.08.2024 for further clarification which was yet to be received from their office.
- (v) Further, the clarification had also been sought from the Office of EIC/Commercial in context of CC 31/2021 dated 06.07.2021. Initially the reply received from their office vide letter no. 146 dated 31.05.2024 was submitted in the Corporate Forum and in the compliance of the Appellant and prepared LCR no. 10/1233 dated 04.06.2024. As per site Checking Report, the Appellant collected LPG Gas through railway wagons in their plant and stored it in their storage tanks and refills it in various capacity cylinders for domestic, commercial and industrial purposes.

Hence there was no manufacturing activity at site, only refilling activity of LPG was being undertaken at site.

- (vi) The Appellant had filed its Petition in Corporate Forum, Ludhiana. In its decision via order dated 27.06.2024, the Corporate Forum had decided/directed to get the clarification from the Office of EIC/Commercial, PSPCL, Patiala/Competent authority regarding the issue that whether the work /operations being undertaken at the Appellant's premises/LPG bottling plant was to be considered as manufacturing process or not in context of CC 31/2021 dated 06.07.2021, within 2 months and deal the present dispute accordingly. In compliance of the Corporate Forum orders, the Respondent's office via letter no. 3506 dated 19.07.2024 and letter no. 3894 dated 12.08.2024, had again sought the clarification from the Office of EIC/Commercial and the final reply was still awaited.
- (vii) The Respondent humbly submitted that as per the directions of the Corporate Forum, matter was already under consideration of EIC/Commercial, PSPCL, Patiala and the Respondent's office had also taken up the matter with DIC Industries and the matter will be decided accordingly. So, the present appeal may be disposed off accordingly.

**(b) Submission during hearing**

During hearings on 04.09.2024, 19.09.2024, 25.09.2024, 10.10.2024 & 23.10.2024, the Respondent reiterated the submissions made in the written reply to the Appeal.

**5. Analysis and Findings**

The issue requiring adjudication is the legitimacy of the action of the Respondent to withdraw the Industrial Subsidy, already given to the Appellant, w.e.f. 17.06.2021 in view of Commercial Circular No. 31/2021 dated 06.07.2021.

*My findings on the points that emerged and my analysis is as under:*

- (i) The CCGRF, Ludhiana in its order dated 27.06.2024 observed as under:-

“Forum observed that the Petitioner is having an Industrial connection for an LPG bottling Plant and is a Central PSU. Instructions were issued by the O/o CE/Comm. PSPCL Patiala vide CC No. 31/2021, regarding withdrawal of Industrial Subsidy being given to Central/State/PSU/PSPCL/PSTCL/BBMB & Govt. Water Supply Connections which are having electricity connections under Industrial category tariff but are not into manufacturing process. In view of this commercial circular, the Industrial Subsidy being given to the Petitioner was withdrawn from 17.06.2021 and an amount of Rs. 3043102/- for already given subsidy was charged as Sundry Charges in his bill dated

27.09.2022. Petitioner did not agree to the withdrawal of industrial subsidy and filed his case in Corporate CGRF, Ludhiana.

Forum observed that, the Industrial subsidy earlier allowed to the Petitioner was withdrawn by the Respondent w.e.f. 17.06.2021 due to audit objections in view of CC no. 31/2021. On instructions of CBC, Respondent wrote to the General Manager, Deptt. of Industry and Commerce, Mohali for seeking necessary clarification regarding categorization of the work into manufacturing or non-manufacturing, carried out by the Petitioner in its LPG Bottling plant. During hearing dated 21.05.2024, Petitioner submitted copy of judgment dated 03.08.2017 passed by division bench of Hon'ble Supreme Court of India in Civil Appeal no. 9295 of 2017-Commissioner of Income Tax-1, Mumbai v/s M/s Hindustan Petroleum Corporation Limited and copy of notification dated 21.09.2004 of Ministry of Commerce and Industry regarding Gas Cylinder Rules, 2004 and letter from Punjab Pollution Control Board in support of his claim of being a manufacturing unit. Respondent was directed to comment upon it. During the proceedings dated 28.05.2024, Respondent was directed to get clarification from the O/o CE/Comm., PSPCL, Patiala/ SE/Billing about whether the Industrial Subsidy is allowable to the Petitioner.

During hearing dated 03.06.2024, Respondent was directed to submit his reply regarding how process of the petitioner falls under the category of non-manufacturing of Industrial products as per CC no. 31/2021 and what conditions are to be fulfilled for being categorized as manufacturing unit. Forum also observed that the Industrial Subsidy disallowed to Petitioner is being allowed by PSPCL to another connection/unit of BPCL, LPG Plant at Bathinda with A/c no. 3002309222. Respondent was directed to get the comments of SE/Billing Patiala in this respect, along with status of Billing of other similar connections across the state.



During hearing dated 03.06.2024, Respondent submitted clarification received from the O/o CE/Comm., PSPCL, Patiala issued vide memo no. 146 dated 31.05.2024 which is reproduced as under: -

*'With respect to subject cited above & letter under reference, it is intimated that it has been clearly specified in CC no. 31/2021 dated 06/07/2021 that industrial subsidy of those connections is to be stopped w.e.f. 17.06.2021 which are not into manufacturing of Industrial products. Therefore, it is clarified that the verification regarding whether the said firm i.e. BPCL LPG Bottling Plant is manufacturing industrial products or not, needs to be carried out at their own level and upon verification, if it is ascertained by your office that the firm is manufacturing industrial products then the industrial subsidy may not be discontinued'*

AEE/Sub Division Lalru visited site of the petitioner and prepared LCR no. 10/1233 dated 04.06.2024. As per site checking report, petitioner collects LPG GAS through railway wagons in their plant and stores it in their storage tanks and refill it in various capacity cylinders for domestic, commercial and industrial purposes and hence there was no manufacturing activity at site, only refilling activity of LPG is undertaken at site.

Respondent submitted that his office was not competent to comment upon whether work carried out by Petitioner in its LPG Bottling plant is manufacturing or non-manufacturing. Further, he submitted that regarding categorization of Petitioner's operation as manufacturing or not as per The Gas Cylinder Rules, 2004, Punjab Pollution Control Board consent and Punjab Factory Act 1952, clarification is required from General Manager, Deptt. of industry and Commerce. Further, he clarified that subsidy has been withdrawn by CBC Ludhiana and therefore, SE/Billing is the sole authority to comment upon it and upon the subsidy being allowed to another consumer having A/c no. 3002309222. During the hearing dated 19.06.2024, Respondent submitted copy of letter written by General

Manager/District Industrial Centre, S.A.S Nagar to Director/Industry & Commerce, Punjab (L.M-2 Branch) Chandigarh seeking clarification about whether the LPG bottling plant is to be considered as manufacturing plant or not.

Representative from O/o SE/Billing submitted documents related to Industrial subsidy allowed/disallowed to other Bottling Plants, in reference to CC 31/2021, which is tabulated as under:

| Name of the Consumer      | A/c No.        | whether industrial subsidy is being given as on date | Whether industrial subsidy was being given earlier and withdrawn later on? If yes date of withdrawal and as per which instructions | Remarks (if any) |
|---------------------------|----------------|------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|------------------|
| M/s BPCL                  | Z33LL0200088   | NO                                                   | Yes. Withdrawn in the Bill of 09/2022 as per Audit Report for the period 2020-21 issued by RAO                                     |                  |
| IOCL Bir Bouran Nabha     | P52-NS01-00004 | NO                                                   | Yes, and withdrawn on date 17/06/2021 as per CC 31/2021                                                                            |                  |
| Manager BPCL, Bathinda    | 3002309222     | 17/06/2021 to 31/05/2024                             | Yes, from 31/05/2024 Rs 25,20,948/- charged from consumer as per CC-31/2021                                                        |                  |
| IOCL                      | 3000855567     | No                                                   | Yes. Withdrawn on 17/06/2021 as per CC 31/2021                                                                                     | SAP              |
| Bharat Petroleum          | 3000855579     | No                                                   | Yes. Withdrawn on 17/06/2021 as per CC 31/2021                                                                                     | SAP              |
| Hindustan Petroleum       | 3000855581     | No                                                   | Yes. Withdrawn on 17/06/2021 as per CC 31/2021                                                                                     | SAP              |
| IOCL Jalandhar bp         | 3008114875     | No                                                   | Yes. Withdrawn on 13/10/2023 (New connection) As per CC 31/2021                                                                    | SAP              |
| Hindustan Petroleum       | H54-LS01-11    | No                                                   | Yes. Withdrawn on 17/06/2021 as per CC 31/2021                                                                                     | Non-SAP          |
| Indian Oil Goindwal Sahib | T64-LS01-00037 | Yes (31.12.19)                                       | No                                                                                                                                 |                  |

Forum observed that there is no uniformity in dealing with such cases as the said subsidy is being given at some places but same is denied at other places. However, detailed comments of SE/Billing were not received even after giving several opportunities and O/o CE/Comm., PSPCL, Patiala has put the onus on the Respondent to classify the operations of Petitioner into manufacturing or non-manufacturing unit.

From the above, Forum felt that issue before it that whether unit of the Petitioner is a manufacturing unit or not in context to CC no. 31/2021 dated 06.07.2021, is not an ordinary issue concerned to the Petitioner only, rather it is a major policy issue concerning large number of such consumers. Further, O/o CE/Comm., PSPCL, Patiala has put the onus on the Respondent to classify the operations of Petitioner into manufacturing or non-manufacturing which does not seem to be correct as it is major policy matter, having state wide implications, which needs proper clarification from O/o CE/Comm., PSPCL Patiala for ensuring a uniform practice across the entire State.

Forum have gone through the written submissions made by the Petitioner in the petition, written reply of the Respondent, oral discussions made by Petitioner along with relevant material brought on record. Keeping in view the above discussion, Forum is of the opinion that in absence of relevant instructions in this regard, it cannot decide whether the operations/work being carried out at Petitioner's LPG Bottling Plant/such other plants, is to be categorized as manufacturing or not. Since the clarification regarding whether the operations/work being carried out at Petitioner's LPG Bottling Plant is to be categorized as manufacturing or not, is pending with Director/ Industries & Commerce, Punjab, Chandigarh and in the absence of conclusive advice/clarification of EIC/Comml., PSPCL, Patiala, it is not possible for the Forum, at this stage to decide upon whether the amount of Rs. 3043102/- charged under the head Sundry

Charges in bill dated 27.09.2022 is in order or not. The issue regarding whether the operations/work being carried out at the petitioner's premises/LPG Bottling Plants is a manufacturing unit or not in context of CC 31/2021 dated 06.07.2021, is required to be clarified/decided at the level of the O/o EIC/Comml., PSPCL, Patiala/competent authority in a time bound manner and the present dispute is required to be dealt with accordingly thereafter."

- (ii) I have gone through the written submissions made by the Appellant in the Appeal, written reply of the Respondent & the data placed on the record by the Respondent as well as oral arguments of both the parties during the hearings on 04.09.2024, 19.09.2024, 25.09.2024, 10.10.2024 & 23.10.2024. The Respondent submitted that in compliance of order dated 27.06.2024 of the Corporate Forum, Ludhiana, the Respondent sought clarification from the O/o EIC/ Commercial, PSPCL, Patiala vide Memo No. 4355 dated 09.09.2024 & 4436 dated 17.09.2024. In response, a clarification was received from the O/o EIC/Commercial, PSPCL, Patiala vide Memo No. 739-741/S-3/Loose-190 dated 18.09.2024, which is reproduced as under:-

*"With respect to subject cited above & letter under reference, it is intimated that O/o EIC/Commercial is not the competent authority to decide whether M/s BPCL LPG Bottling Plant is manufacturing industrial unit or not. The deciding authority in this case is Department of Industry and Commerce GoP as the subsidy to the industry is being given by the GoP. As intimated by the ASE/DS Division, Lalru that an official of the GM/DIC,*



*SAS Nagar has also visited the Bottling Plant of the petitioner and GM/DIC vide their letter no. 5054, 6764 dated 19.06.2024, 13.08.2024 has referred the matter to Director/ PIU/ Department of Industry and Commerce Punjab, Chandigarh for clarification whether the M/s BPCL LPG Bottling Plant is to be considered as manufacturing industrial unit or not. It has been observed that matter are being referred to this office on which no clarification is required to be issued by this office. Moreover further action may be taken as per the clarification received from GM/DIC at your own level.”*

- (iii) On perusal of the above, it is observed that the office of EIC/ Commercial, PSPCL, Patiala has clarified that the since the subsidy is being given by the Government of Punjab, so the Department of Industries & Commerce, Government of Punjab is the competent authority to decide whether the subsidy is to be given to the Appellant or not in this case. Further, the Respondent- ASE/DS Division, PSPCL, Lalru was instructed to take action as per the clarification received from the GM/DIC, Government of Punjab in this regard.
- (iv) I agree with the above clarification. Since the subsidy is being given by the Government of Punjab, therefore, it is the competent authority to decide.
- (v) During the course of the case, both the Appellant as well as the Respondent approached GM/ DIC, Government of Punjab for clarification & this Court gave sufficient time for obtaining the clarification. Till date the clarification has not been received. The case is now closed and the Respondent is instructed to take

action in this case as per the clarification received from the Department of Industries & Commerce, Government of Punjab within two weeks of getting the clarification.

**6. Decision**

As a sequel of above discussions, the order dated 27.06.2024 of the CCGRF, Ludhiana in Case No. CF-096/2024 is amended. The Respondent is directed to get the clarification from the Department of Industries & Commerce, Government of Punjab regarding the issue that whether the work/operations being undertaken at the Appellant's premises/LPG bottling plant, is to be considered as manufacturing process or not in context of CC 31/2021 dated 06.07.2021 and deal the present case accordingly within 2 weeks of receiving the said clarification.

7. The Appeal is disposed of accordingly.
8. As per provisions contained in Regulation 3.26 of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations-2016, the Licensee will comply with the award/order within 21 days of the date of its receipt.
9. In case, the Appellant or the Respondent is not satisfied with the above decision, he is at liberty to seek appropriate remedy against this order from the Appropriate Bodies in accordance

with Regulation 3.28 of the Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations, 2016.

November 07, 2024  
S.A.S. Nagar (Mohali)

(ANJULI CHANDRA)  
Lokpal (Ombudsman)  
Electricity, Punjab.

