

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Date of Decision-25.07.2017

1. CR No.7800 of 2016 (O&M)

Dakshin Haryana Bijli Vitran Nigam Ltd. and another ... Petitioners
Versus

Gurbachan Singh and another ... Respondents

2. CR No.7801 of 2016 (O&M)

Dakshin Haryana Bijli Vitran Nigam Ltd. and another ... Petitioners
Versus

Sucha Singh and another ... Respondents

3. CR No.7802 of 2016 (O&M)

Dakshin Haryana Bijli Vitran Nigam Ltd. and another ... Petitioners
Versus

Shalini Kumra and another ... Respondents

4. CR No.7806 of 2016 (O&M)

Dakshin Haryana Bijli Vitran Nigam Ltd. and another ... Petitioners
Versus

Bhupinder Singh and another ... Respondents

5. CR No.7807 of 2016 (O&M)

Dakshin Haryana Bijli Vitran Nigam Ltd. and another ... Petitioners
Versus

Khushal Chand and another ... Respondents

6. CR No.7808 of 2016 (O&M)

Dakshin Haryana Bijli Vitran Nigam Ltd. and another ... Petitioners
Versus

Raghuvir Singh and another ... Respondents

7. CR No.7809 of 2016 (O&M)

Dakshin Haryana Bijli Vitran Nigam Ltd. and another ... Petitioners
Versus

Raghubir Singh and another ... Respondents

8. CR No.7810 of 2016 (O&M)

Dakshin Haryana Bijli Vitran Nigam Ltd. and another ... Petitioners
Versus

Santokh Singh and another ... Respondents

9. CR No.7817 of 2016 (O&M)

Dakshin Haryana Bijli Vitran Nigam Ltd. and another ... Petitioners
Versus

Gurinder Jeet Singh and another ... Respondents

10. CR No.7818 of 2016 (O&M)

Dakshin Haryana Bijli Vitran Nigam Ltd. and another ... Petitioners
Versus

Binder Singh and another ... Respondents

11. CR No.7865 of 2016 (O&M)

Dakshin Haryana Bijli Vitran Nigam Ltd. and another ... Petitioners
Versus

Charan Singh and another ... Respondents

12. CR No.7763 of 2016 (O&M)

Dakshin Haryana Bijli Vitran Nigam Ltd. and another ... Petitioners
Versus

Sukhdev Singh and another ... Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Sumit Jain, Advocate for the petitioners.

Mr. Gurmeet Singh, Advocate for
Mr. Ajay Kamboj, Advocate for respondent No.1 in
CR Nos.7800, 7801,7802, 7806, 7807, 7808, 7810,
7818, 7865, 7763 of 2016.

Mr. Sanjiv Gupta, Advocate for respondent No.1 in CR
Nos.7809 and 7817 of 2016.

RAJ MOHAN SINGH, J.

[1]. Vide this common order, CR No.7800 of 2016 titled

Dakshin Haryana Bijli Vitran Nigam Ltd. and another Vs. Gurbachan

Singh and another, CR No.7801 of 2016 titled Dakshin Haryana Bijli Vitran Nigam Ltd. and another Vs. Sucha Singh and another, CR No.7802 of 2016 titled Dakshin Haryana Bijli Vitran Nigam Ltd. and another Vs. Shalini Kumra and another, CR No.7806 of 2016 titled Dakshin Haryana Bijli Vitran Nigam Ltd. and another Vs. Bhupinder Singh and another, CR No.7807 of 2016 titled Dakshin Haryana Bijli Vitran Nigam Ltd. and another Vs. Khushal Chand and another, CR No.7808 of 2016 titled Dakshin Haryana Bijli Vitran Nigam Ltd. and another Vs. Raghuvir Singh and another, CR No.7809 of 2016 titled Dakshin Haryana Bijli Vitran Nigam Ltd. and another Vs. Raghubir Singh and another, CR No.7810 of 2016 titled Dakshin Haryana Bijli Vitran Nigam Ltd. and another Vs. Santokh Singh and another, CR No.7817 of 2016 titled Dakshin Haryana Bijli Vitran Nigam Ltd. and another Vs. Gurinder Jeet Singh and another, CR No.7818 of 2016 titled Dakshin Haryana Bijli Vitran Nigam Ltd. and another Vs. Binder Singh and another, CR No.7865 of 2016 titled Dakshin Haryana Bijli Vitran Nigam Ltd. and another Vs. Charan Singh and another and CR No.7763 of 2016 titled Dakshin Haryana Bijli Vitran Nigam Ltd. and another Vs. Sukhdev Singh and another are being disposed of. Since common order is assailed in the aforesaid revision petitions and common law and facts are involved, therefore, facts are being from CR No.7800 of 2016.

[2]. Petitioners have assailed the order dated 08.08.2016 passed by respondent No.2/Permanent Lok Adalat for Public Utility Services being illegal and without jurisdiction.

[3]. Petitioners claimed that being an autonomous body, the petitioners have locus to file the present petition(s). Earlier respondent No.1 filed an application under Section 22-C of the Legal Services Authority Act, 1987 for settlement of the dispute with the petitioner-Nigam. Prayer was made by respondent No.1 for summoning of the petitioner-Nigam for settling the dispute amicably and in the event of their failure to settle the dispute amicably, an award directing the respondents not to change the feeder of the tube-well of applicant/respondent No.1 and also not to charge electricity charges at NDS rates from applicant/respondent No.1 till final decision of the case.

[4]. Notice of the said application was issued to the petitioner-Nigam and a reply was filed by the petitioner-Nigam stating that respondent No.1 was enjoying the electricity from the urban feeder i.e. Goshala Feeder, City Rania for their tube-wells. When the connections were provided to respondent No.1, at that time, there was no differentiation between the rural or urban feeder. On complaints and also in view of the subsidized rates of tariff for agriculture connection, the connections were sought to be converted from urban to agriculture feeder. The circular was issued on 17.01.2007 by the petitioner-Nigam, which was relied upon by respondent No.1, whereby it was decided that supply from the urban feeder shall not be given for tube-well connections for agriculture purposes. It was instructed that the supply of urban feeder cannot be given for agriculture purposes as per Clause 3 of the circular.

[5]. Respondent No.1 was paying the tariff for the connections of tube-well at the rate fixed for agriculture purposes. Before the Lok Adalat, the matter was settled. Kitab Singh, SDO, Sub Division, Rania and learned counsel for the petitioners made their separate statements. Statement of Kitab Singh, SDO, Sub Division, Rania was to the following effect:-

“Statement of Sh. Kitab Singh, SDO, Sub Division, Rania for the respondents on S/A.

Stated that I have gone through the petition and have filed the written reply on behalf of the respondents contesting the same. The Adalat has made efforts for amicable settlement and matter has been amicably settled. Petitioner is consumer of electricity vide connection No.RN61-0068. It is AP connection. It falls within the municipal limits of Rania. Petitioner wants to take the benefit of Sale Instructions No.27/2007 and Sales Circular No.D-15/2012 and has agreed to submit the copy of Khasra Girdawari for billing under an AP category. The above said Sales Circular are in operation and the respondents are ready to issue bills of the petitioner under AP category tariff. We will not charge electricity consumption charges from the petitioner on the basis of non-domestic supply rate. If we have issued the bill on NDS basis then we will withdraw that and if the petitioner has paid the amount of NDS tariff then that amount shall be adjusted in the future bills of AP category. Petition may be disposed of being amicably settled.”

In view of aforesaid statement, the matter was amicably settled. In view of the compromise, Permanent Lok Adalat (Public Utility Services), Sirsa passed the order dated 19.02.015, vide which

application was dismissed as withdrawn. Parties were held to be bound by their statements.

[6]. In the case filed by one Satnam Singh who is also having tube-well connection in the same area, Gurcharan Singh, SDO, DHBVN Rania appeared and made the following statement:-

“Stated that our department will not insist the petitioners to pay tariff as per the bills already issued i.e. the bills under dispute. It is further added that if the respondent-Department erects new rural feeder for agricultural purposes, the petitioners may not oppose to shift their tube-wells on that line. It is further added that if the petitioners have paid any amount on the basis of the NDS tariff, the respondents would adjust that amount in their future bills, which will be issued in view of the provisions of the above quoted Sales Circular No.D-15/2012. If this proposal is acceptable to the petitioners, petition may be decided accordingly.”

[7]. Permanent Lok Adalat decided the case of Satnam Singh vide award dated 17.07.2015 and directed the Nigam to charge the electricity consumption from Satnam Singh as per Sales Circular No.D-15/2012 on the basis of AP Tariff subject to the condition that the petitioner-Satnam Singh shall furnish copy of Girdawari of his land for billing under AP category. Respondent shall adjust the excess amount, if any, charged from the petitioner on the basis of NDS Tariff in the future bills. On the basis of decision dated 17.07.2015, petitioner sought to explain the order dated 19.02.2015 passed by the Permanent Lok Adalat and requested respondent No.1 and other tube-well connections holders to shift the supply of

tube-well connection from urban feeder to agriculture feeder as per sales circular and order dated 17.07.2015.

[8]. Petitioners claimed that the order dated 17.07.2015 was passed on the basis of statement of Gurcharan Singh, SDO, DHBVN, Rania in consonance with sale circular instructions dated 24.07.2012, in which it has been provided that AP connections which are presently connected from urban feeder in urban area, the Girdawari will be submitted by the consumer for billing under AP category. Learned counsel for the petitioners submitted that as per instructions dated 02.07.2013, the existing tube-well connections on urban feeder shall also be given metered supply only. The distribution licensees shall take necessary action to shift the tube-well connections to AP feeders within a specified time. Vide letter dated 02.08.2016, notice was served upon respondent No.1 to show his *bona fide* with regard to the using of electricity as per the norms of sale circulars and also for shifting the connection to agriculture purposes.

[9]. Respondent No.1 filed the petition for enforcement of award/order dated 19.02.2015 decided under Section 22-C of the Legal Services Authority Act, 1987, vide which the petitioners were ordered to be bound by the statement of Kitab Singh, SDO, Sub Division, Rania recorded on 19.02.2015. Respondent No.1 alleged that the electric connection under old A.C number is under his ownership and is user for the land situated in the Municipal

Committee, Rania and he is making the payment of electricity dues as per his statement dated 19.02.2015. On the basis of subsequent correspondence dated 02.08.2016, petitioner/Nigam wanted to back out from the earlier decision passed by the Permanent Lok Adalat under Section 22-C of the Legal Services Authority Act and tried to disconnect the electricity connection of respondent No.1.

[10]. On the petition filed by respondent No.1 for enforcement of the award/order dated 19.02.2015, Permanent Lok Adalat passed the order dated 08.08.2016, issuing notice to the petitioner/Nigam and restraining the Nigam from disconnecting the electricity supply of the consumer till then.

[11]. Apparently, the matter is subjudiced before the Permanent Lok Adalat (Public Utility Services). Permanent Lok Adalat (Public Utility Services) is competent to decide the application for enforcement of the award in accordance with law. The plea of shifting of electricity connection from urban feeder to agriculture feeder would also be gone into by the Permanent Lok Adalat (if the same falls under the scope of a litigation pending before it).

[12]. Petitioners have relied upon the sales circular, the order passed on 17.07.2015 by the Permanent Lok Adalat in case of '*Satnam Singh*' and order dated 30.11.2013 passed by the Gram Nayayalya. At this stage, it would be pre-mature to comment upon the merits of the application for enforcement of the order pending

before the Permanent Lok Adalat. However, the Permanent Lok Adalat can be obligated to decide the pending application before it in accordance with law. Both the parties would be at liberty to address arguments before the Permanent Lok Adalat in the light of submissions made in the present revision petition(s) and the Permanent Lok Adalat would decide the scope of litigation and would pass an order in accordance with law as early as possible.

[13]. Consequently, these petitions are disposed of with the aforesaid observations.

[14]. A photocopy of this order be placed on the files of connected cases.

(RAJ MOHAN SINGH)
JUDGE

25.07.2017

Prince

Whether reasoned/speaking

Yes/No

Whether Reportable

Yes/No