

219

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

CWP-17909-2015

Date of decision : 27.04.2017

Kehar Singh and others

... Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Kartik Gupta, Advocate
for the petitioner(s).

Mr. Yatinder Sharma, Addl. A.G., Punjab.

Mr. B.S. Mittal, Advocate
for respondent Nos.2 to 6.

AMIT RAWAL, J. (ORAL)

The challenge in the present writ petition is to the order dated 19.10.2012 (Annexure P-8) passed in pursuance to the directions issued by the Director (Distribution)/respondent No.3, whereby, on the basis of the inquiry, the tube-well connection of the petitioners had been shifted from the transformers situated in kandi area to non-kandi area.

Mr. Kartik Gupta, learned counsel appearing on behalf of the petitioners submits that on the basis of the some complaint made to the authorities, the aforementioned connection has been shifted without affording any opportunity of hearing.

He further submits that similar kind of connections are being used by the various other consumers situated in the non-kandi area. In this

regard, he has drawn the attention of this Court to the Annexures P-9, P-10 and P-11 i.e. information sought under the Right to Information Act, to show that the connection to Villages Moranwali, Daghman, Ibrahimpur is being supplied 11 KV feeders power supply from 66 KV Sub-Station, Garhshankar. The aforementioned villages are located in the non-kandi area. The alleged reliance of the provisions of Clause 13.6.2 of the Electricity Supply Regulations is only dealing with the priority connection and not with regard to the shifting of the connection. Annexure P-11 also deals with Village Nangal Kanungo, even, certain persons had approached the Consumer Forum and the defence of the Electricity Board by relying upon the aforementioned provisions of the Policy have been struck down. The reference has been made to the decision dated 17.09.2013 (Annexure P-12) rendered by the State Consumer Disputes Redressal Commissioner, Punjab, thus, urges this Court for setting aside the impugned order, under challenge.

Mr. B.S. Mittal, learned counsel appearing on behalf of respondent Nos.3 to 6 submits that at the time when the initial connection/kandi was given to the petitioners, there was very less demand, but now owing to increase in demands, the connection on the basis of the complaint and inquiry conducted, much less, by visiting the spot had been shifted, but does not dispute the compliance of the provisions of principles of natural justice that before such action could be taken, an opportunity of hearing had been granted.

I have heard the learned counsel for the parties and appraised the paper book. Dehors of the factum of the villagers being provided the connection from the village situated in non-kandi from the kandi feeder, but

the fact remains that before passing the impugned order, the petitioners had not afforded any opportunity. The authorities at the helm of the affairs are enjoined upon an obligation after having conducted the inquiry to call upon the consumers like petitioners, of their intention to do so. Having not adhered to such principles of *audi alteram partem*, I am of the view that the impugned order, under challenge, is vitiated in law and therefore, not sustainable in the eyes of law and the same is hereby set aside.

Resultantly, the writ petition is allowed.

This order of mine shall not prevent the Electricity Board to take action in accordance with law.

In case such action is taken, the petitioners shall be at liberty to take all pleas as raised in the writ petition before the authorities and thereafter, the authority shall pass a speaking order after affording an opportunity of hearing to the petitioners, much less, in accordance with law.

27.04.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

✓

Whether speaking/reasoned Yes/ No

✓

Whether Reportable Yes/ No