

CWP No.7883 of 2016 (O&M) &
all other connected cases

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

CWP No.7883 of 2016 (O&M) &
all other connected cases
Date of decision : 22.02.2017

Chief Engineer, Border Range, Punjab State Power Corporation Ltd. and
another

...Petitioners

Versus

Pargat Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Ms. Promila Nain, Advocate for the petitioners.

Mr. Ashok Kumar Sama, Advocate for the respondent No.1.

Mr. Rahul Sharma, Advocate for respondent No.3.

Ms. Himani Kapila, Advocate
for Balaji City Developer Pvt. Ltd.

AMIT RAWAL, J. (Oral)

This order of mine shall dispose of 32 writ petitions bearing CWP-7883-2016 titled as “Chief Engineer, Punjab State Power Corporation Ltd. and another V/S Pargat Singh and another”, CWP-8133-2016 titled as “Chief Engineer, Border Range, Punjab State Power Corporation Ltd. and another V/S Sanjiv Kumar and another”, CWP-8145-2016 titled as “Chief Engineer, Border Range, Punjab State Power Corporation Ltd. and another V/S Kulbir Singh and another” CWP-8146-2016 titled as “Chief Engineer,

Border Range, Punjab State Power Corporation Ltd. and another V/S Visheshwar Sil @ Vishweshar Singh and another” CWP-8175-2016 titled as “Chief Engineer, Punjab State Power Corporation Ltd. and another V/S Ratwant Kaur and another”, CWP-8176-2016 titled as “Chief Engineer, Border Range, Punjab State Power Corporation Ltd. and another V/S Simerjit Kaur and another”, CWP-8191-2016 titled as “Chief Engineer, Punjab State Power Corporation Ltd. and another V/S Gurinder Kaur and another”, CWP-8310-2016 titled as “Chief Engineer, Border Range, Punjab State Power Corporation Ltd. and another V/S Gurmukh Singh and another”, CWP-8323-2016 titled as “Chief Engineer, Border Range, Punjab State Power Corporation Ltd. and another V/s Palwinderjit Kaur and another”, CWP-8330-2016 titled as “Chief Engineer, Border Range, Punjab State Power Corporation Ltd. and another V/S Gurmit Singh and another”, CWP-8368-2016 titled as “Punjab State Power Corporation Ltd. V/s Paramjit Kaur and anr.”, CWP-8431-2016 titled as “Chief Engineer, Border Range, Punjab State Power Corporation Ltd. and another V/S Paramjit Kaur and another”, CWP-8433-2016 titled as “Chief Engineer, Border Range, Punjab State Power Corporation Ltd. and another V/s Kanwaljit Singh and another”, CWP-8434-2016 titled as “Chief Engineer, Border Range, Punjab State Power Corporation Ltd. and another V/s Sukhwinder Kaur and anr.”, CWP-8453-2016 titled as “Chief Engineer, Border Range, Punjab State Power Corporation Ltd. and another V/S Inderpal Singh and another”, CWP-8454-2016 titled as “Chief Engineer, Border Range, Punjab State Power Corporation Ltd. and another V/S Paramjit Kaur and another”, CWP-

8468-2016 titled as “Chief Engineer, Border Range, Punjab State Power Corporation Ltd. and another V/S Harjit Singh and another”, CWP-8471-2016 titled as “Chief Engineer, Border Range, Punjab State Power Corporation Ltd. and another V/S Randeep Kaur and anr.”, CWP-8489-2016 titled as “Chief Engineer, Border Range, Punjab State Power Corporation Ltd. and another V/S Parveen Kumar and another”, CWP-8707-2016 titled as “Chief Engineer, Border Range, Punjab State Power Corporation Ltd. and another V/S Karamjit Kaur and another”, CWP-8713-2016 titled as “Chief Engineer, Border Range, Punjab State Power Corporation Ltd. and another V/S Kiran Bala and another” CWP-8721-2016 titled as “Chief Engineer, Border Range, Punjab State Power Corporation Ltd. and another V/S Amit Chopra and another”, CWP-8812-2016 titled as “Chief Engineer, Border Range, Punjab State Power Corporation Ltd. and another V/S Rupinder Kaur and another”, CWP-8813-2016 titled as “Chief Engineer, Border Range, Punjab State Power Corporation Ltd. and another V/S Ashu and another”, CWP-8835-2016 titled as “Chief Engineer, Border Range, Punjab State Power Corporation Ltd. and another V/S Gurmukh Singh and another”, CWP-9368-2016 titled as “Chief Engineer, Border Range, Punjab State Power Corporation Ltd. and another V/S Baljit Kaur and another”, CWP-9424-2016 titled as “Chief Engineer, Border Range, Punjab State Power Corporation Ltd. and another V/S Sukhpal Singh and another”, CWP-8533-2016 titled as “Chief Engineer, Border Range, Punjab State Power Corporation Ltd. and another V/S Bharat Bhushan and others”, CWP-7468-2016 titled as “Chief Engineer, Border Range, Punjab State

Power Corporation Ltd. and another V/s Kulwant Kaur and others”, CWP-7674-2016 titled as “Chief Engineer, Border Range, Punjab State Power Corporation Ltd. and another V/s Nishan Singh and another”, CWP-7731-2016 titled as “Chief Engineer, Border Range, Punjab State Power Corporation Ltd. and another V/S Surjit Singh and another” and CWP-8918-2016 titled as “Chief Engineer, Border Range, Punjab State Power Corporation Ltd. and another V/s Amrik Singh and another”, filed by Punjab State Power Corporation Ltd. against the order of Permanent Lok Adalat, whereby complaint of the residents of Kanwar Avenue Amritsar who on purchase have become owner of the property bearing different plot numbers in Kanwar Avenue Amritsar situated in Colony duly approved by the Municipal Corporation Authorities under TP Scheme No.83 Notification dated 12.04.2001, has been allowed.

Grievance of the complainant before the Lok Adalat was that they had applied for release of temporary electric connection which was duly released by Punjab State Power Corporation Ltd. bearing different account numbers. One of the account number is Temp/8913 and consumption charges have already been paid without committing any default. Thereafter an application for installation of the permanent electric connection along with Form-AA and copy of sale deed and other documents required was submitted but the same was not released on the premise that colonizer of the colony had not got approved the layout of the LD system from Chief Electrical Inspector. The case of the complainant was that LD system and transfer had already been installed by the colonizer in the

Kanwar Avenue Colony and the many residents of the colony have been released the connection. This fact in written reply before Lok Adalat was not denied. However, during the pendency of the writ petition, Ms. Promila Nain, has drawn the attention of this Court to Annexure P-9 attached with replication in CWP No.8533 of 2016, regarding issuance of notice of the disconnection of the electricity to other residents owing to the observations rendered by the Lok Adalat. She further submits that Punjab Pollution Control Board, Amritsar vide notice dated 24.03.2015 had issued a direction to the Chief Engineer (Border Range), Punjab State Power Corporation Ltd., Amritsar under Section 33-A of the Water (Prevention and Control of Pollution) Act, 1974 on the premise that it had been decided to close the project due to the violation done by the builders. It is in this aspect of the matter, permanent connection cannot be granted. Reference has also been made to Annexure P-7 i.e. letter dated 07.09.2015 written by an office of Engineer in Chief/Commercial, PSPCL, Patiala to Sub Divisional Officer, Commercial, Mall Mandi, Amritsar on the subject of NOC by PSPCL to Shree Balaji City Developers Private Limited of Kanwar Avenue residential colony on the premise that there was deficiency with regard to the certain documents. All these factors have not been taken into consideration by the Permanent Lok Adalat.

She further submits that during the pendency of the writ petition, builder has already complied with certain requirements as noticed in Annexure P-7 and regard other contemplating to do so very soon and resultantly permanent connection would be released. On completion of the

formalities plus deposit of certain amounts, it would be released, in essence, order of Lok Adalat in its letter and spirit would be complied with.

Learned counsel appearing on behalf of respondents submits that Electricity Board had woken up by issuing notices to certain residents of the colony only on account of the observations rendered by the Lok Adalat. Even if the requirement was not done by the Builder, a person cannot be deprived of essential services i.e. electricity as consumption charges have been paid by the consumer and not by the builder. LD System had already been installed and there is no default in that and has drawn the attention of this Court to para Nos.3, 4 and 5 of the reply filed by builder, which reads as under:-

“3. That it is worthwhile to mention here that Shri Balaji City Developer Private Limited has taken the approval of all the objections raised by PSPCL vide memo No.2361/I-14853 dated 07.09.2015 Annexure P-7 as in the main petition. The following objections has been approved, which is as follows:-

- a. Certified copy of resolution authorizing the signatory of sign on behalf of company. On 4th July, 2016-Approved. (Annexure R-1).*
- b. Copy of approved layout plan by competent authority. On 13th Sept. 2015-Approved (Annexure R-1).*
- c. Copy of License/permission/approval granted by competent authority to develop colony. On 04.07.2016-Approved (Annexure R-1).*
- D. Detailed load sheet. On 06.08.2016-approved (Annexure R-2).*

The above said objection mentioned in Annexure P-7 has been removed an approval has been given in this

regard. For the perusal of this Hon'ble Court the copy of the said approvals is attached with this reply as Annexure R-1 and R-2.

4. That it is also pertinent to mention here that regarding the installation of LD system I has also been approved on 06th Aug 2016 estimated cost for laying of LD system inside the colony in case of works of electrification has to be done by PSPCL. Moreover, for Nodal Officer recommends grant of NOC has also been applied, which is pending.

5. That as per the instruction of Punjab Pollution Control Board, we have already collected all the documents and ready to apply for the approval of STP system which has to be approved by the respondent No.3. Its upon them as and when it has to be approved.”

and thus, urges this court for dismissal of the present writ petitions.

I have heard learned counsel for the parties and appraised the paper book.

The affidavit filed on behalf of builder attaching the approved layout (Annexure R-1) and licence and permission/detailed load sheet (Annexure R-2) has not been rebutted by any of the resolution. Even specific averments of approval of LD system on 06.08.2016 which is almost year after the letter (Annexure P-7) has also not been denied perhaps on the premise that builder has already submitted the requisite documents and contemplating to the deposit of the dues, if any, of the Electricity Board.

It is strange that the PSPCL had been adopting pick and chose policy for allotting the connection to the various residents of the colony and

having brought to the notice of Lok Adalat and accepted by the official of PSPCL, the Electricity Board has woken up and taken the action in this regard. Such type of action on behalf of PSPCL is highly deprecable and not appreciated. There is no denial to the issuance of the temporary connection and consumption charges. Replication has been filed only to deny the written statement filed on behalf of the applicant but not to that of the builder. Non-compliance of the requirement/terms and conditions of the Punjab Water Pollution Control Board cannot be an impediment for the residents for not using the benefit of the essential service i.e. electricity. It appears that PSPCL has been adopting pick and choose policy in denying the issuance of connection to certain applicants who were constrained to knock the door of Lok Adalat vis-a-vis others an action now have been initiated in order to come on a platform of parity. Be that as it may, once Ms. Promila Nain, Advocate on instruction from Bal Krishan, Addl. SCO suffered statement that the builder has already submitted requisite documents and is contemplating to deposit the dues, though no objection had been taken in the written statement before the Lok Adalat regarding pendency of the dues except non-confirming to the sketch plan of LD system, yet had an audacity to raise objection of no dues.

It is strange that the plea of no dues even had not been taken up in the written statement but it has come for the first time from the mouth of Addl. SCO who is present in the Court. The officers at the helm of the affairs are required to be coherent and consistent in their stand but not to adopt a inconsistent stand. Precisely, this was noticed by the Lok Adalat

while allowing petition by deplorable the Act of Local Authorities of PSPCL by adopting a pick and choose policy.

I am of the view that order of Lok Adalat is perfectly legal and justified and does not call for interference.

No ground for interference is made out.

Resultantly, writ petitions are dismissed.

This Court also deem it appropriate to issue direction to respondent No.4 to comply with the requirement of PSPCL as early as possible preferably within a period of one month failing which this Court shall not constrained to take action of not complying with the doctrine of legitimate expectation i.e. the promise given to the residents of area while allotting the plots.

It has also been brought to the notice of this Court that against the notices issued of dis-connection, there is interim injunction granted by the Civil Court in favour of the applicants who have been enjoying the facility of the permanent connection.

22.02.2017
pawan

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No