

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

CWP No.5838 of 2018
Date of Decision:04.10.2018

Paljinder Singh

. Petitioner

Vs.

Punjab State Power Corporation Limited and others

. Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Kawaljyot Singh, Advocate,
for the petitioner.

Mr.Y.P. Khullar, Advocate,
for respondents No.1 to 3.

Mr.Zorawar Singh Chauhan, Advocate,
for respondent No.4.

RAKESH KUMAR JAIN, J.

The petitioner is allegedly the owner in possession of House No.B-1/418-419, situated in Village Mohalla Chaudrian, Tehsil Phillaur, District Jalandhar. The petitioner is already having a domestic electricity connection. However, his grievance is that one Sukhjinder Kaur wd/o Gurmail Singh has also been issued a domestic electricity connection bearing No.PC 221324 in his premises. The petitioner made a complaint to the respondents to cancel the electricity connection issued in favour of Sukhjinder Kaur. Since the complaint of the petitioner has not been considered, therefore, he has approached this Court for the issuance of a writ in the nature of mandamus.

Learned counsel for the petitioner has submitted that Clause 6.5 of the Supply Code, 2014 (effective from 1.1.2015), notified by the Punjab

State Electricity Regulatory Commission on 5.11.2014, deals with one connection in one premises. The said provision is reproduced as under: -

“6.5 One Connection in One Premises

6.5.1 A consumer shall be treated as a distinct entity and deemed to be an independent establishment, if

a) it is a a separate unit in duly partitioned premises owned or taken on lease/rent;

b) it is registered as a separate entity/firm under the relevant law;

c) it holds a separate Sales Tax/VAT number and is independently assessed to Income Tax.

6.5.2 The applicant shall give an undertaking that no connection exists in the premises for which a connection is applied. However domestic supply consumer may get more than one domestic supply connection in the same premises where family members/occupants living in a house have separate cooking arrangements. In case a tenant requires a separate connection in the same premises, he shall furnish an undertaking from the landlord in the form of an affidavit duly attested by Notary Public

that the landlord shall clear all the liabilities in case the tenant leaves the premises without paying the distribution licensee's dues.

6.5.3 If a portion of residential /industrial premises is regularly used for any commercial activity permitted under law , the consumer shall be required to obtain a separate connection under NRS category for the portion put to commercial use. In such an event, two connections, one under Schedule DS/Industrial and the other under Schedule NRS shall be permitted.”

He has also prayed that in case the disputed electricity connection is not cancelled then direction may be issued for clubbing the same in terms of Clause 35 of the Electricity Supply Instructions Manual (updated till 30.6.2017) [for short ‘the Supply Manual’] which says that *“some consumers take more than one connection in the same premises to avoid conversion of supply to higher voltage and application of different Schedule of Tariff. Release of a new connection or more than one connection in the same premises shall be regulated as per Reg. 6.5 and for clubbing of industrial loads as per Reg. 8.12 of the Supply Code -2014.*

The petitioner has pressed Clause 35.7 of the Supply Manual in support of his submission, which read as under: -

“35.7 Whenever an existing consumer on his own, applies for clubbing of two or more

connections running at the same premises clubbing of all such connections may be allowed by the officers competent to sanction the total load after clubbing. The clubbing of such connections may be allowed at the cost of PSPCL only if on the clubbing of different connections, the voltage level for the total clubbed load remains the same. Where after clubbing of loads the consumer is required to get supply at the next higher voltage, he shall bear the expenditure required for laying higher voltage lines and setting up his own sub-station etc. These provisions shall be applicable for all categories of connections.”

After notice, the respondents have filed their respective replies.

Respondent No.4 has averred in her reply that she is the aunt of the petitioner as petitioner is the son of Santokh Singh son of Bikkar Singh and she is the widow of Gurmail Singh son of Bikkar Singh. She is allegedly residing in the said house from the last 40 years and the petitioner has allegedly procured a forged and fabricated Will of her father-in-law on the basis of which he has got the house in question mutated in his name in the record of the Municipal Council. Earlier there was only one connection in the house in question but the petitioner, after allegedly procuring the forged and fabricated Will of her father-in-law, claimed ownership and

illegally disconnected the electricity of the portion which is in her occupation.

In the reply filed by respondents No. 1 to 3, it is averred that the respondents can release more than one domestic electricity connection in one premises provided the family members/occupants having a separate cooking arrangements in the house. In this regard, the respondents have referred to Clause 6.5.2 of the Supply Code and submitted that since respondent No.4, who happened to be the Chachi of the petitioner, has produced separate ration card on the same address to prove the fact that she has separate cooking arrangement, therefore, a separate electricity connection has been provided. It is also submitted that the domestic electricity connection of respondent No.4 cannot be clubbed as the clubbing is regulated as per the regulation 35 of the Supply Manual.

I have heard learned counsel for the parties and perused the record.

Both the petitioners and the respondents have referred to Clause 6.5 of the Supply Code in support of their contention. The case of the petitioner is that until and unless the unit is separated, duly partitioned or taken on lease/rent, it cannot be treated as a distinct entity and deemed to be an independent establishment for the purpose of a separate electricity connection. The property in dispute is exclusively owned by him in which respondent No.4 is residing as a licensee i.e neither the owner nor the tenant/lessee and cannot apply for a separate electricity connection without his consent.

On the other hand, respondent No.4 is claiming her right in terms of Clause 6.5.2 of the Supply Code contending that the “domestic

supply consumer” can get one more domestic supply connection in the same premises where the family members/occupants living in the house have separate cooking arrangements and since respondent No.4 has *prima facie* proved with the aid of the ration card etc. that she is occupying the house in question and has separate cooking arrangements, therefore, she has been rightly issued the separate electricity connection by respondent No. 1 to 3.

As a matter of fact, neither the petitioner nor the respondents have appended the complete Supply Code. Clause 6.5.1 of the Supply Code starts with the word “consumer”. Whereas the word used in Clause 6.5.2 of the Supply Code is “domestic supply consumer”. The definition of “consumer” has nowhere been brought on record by the parties to the *lis*. However, according to Clause 6.5.1 of the Supply Code “consumer” shall be treated as a distinct entity and has to be treated as an independent establishment if it is a separate unit in duly partitioned premises owned on taken on lease/rent. Whereas, as per Clause 6.5.2 of the Supply Code, the applicant has to give an undertaking that he has no other connection in the same premises for which the connection is applied but thereafter the provision says that “however domestic supply consumer may get more than one domestic supply connection in the same premises where family members/occupants living in a house have separate cooking arrangements”.

The question is as to whether the “domestic supply consumer” would be the one who is the “consumer” because as per Clause 6.5.2 of the Supply Code the person/applicant has to give undertaking that he has no other connection in the same premises?

Thus in order to sort out the dispute between the parties, the present petition is hereby disposed of with a direction to respondent No.1 to

reconsider the application of the petitioner in accordance with law, decide the same after hearing both the parties within a period of three months and in this process shall issue notice to both the parties of the date and time for their appearance, who may appear themselves in-person or through advocates, for the purpose of seeking redressal of their grievance.

04.10.2018

Vivek

**(RAKESH KUMAR JAIN)
JUDGE**

Whether speaking /reasoned : *Yes/No*

Whether Reportable : *Yes/No*