

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

**Civil Writ Petition-PIL No. 154 of 2020 (O&M)
Date of Decision: 18.02.2021**

Dr. Monika Sharma and two others

..... Petitioners

Versus

Union of India and six others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH**

Present: Mr. Tushar Sharma, Advocate
for the petitioners.

*[The aforesaid presence is being recorded through video conferencing
since the proceedings are being conducted in virtual court]*

JASWANT SINGH, J. (ORAL)

Present Writ Petition – Public Interest Litigation (PIL) has been filed by the three petitioners, namely, Dr. Monika Sharma, Manoj Tyagi and Satish Chand. Petitioner No. 1 (Dr. Monika Sharma), who is a doctor and resident of Panchkula, Haryana, runs her own venture namely “Sleep Moksha”; petitioner No. 2 (Manoj Tyagi), who is a resident of Gurugram, runs an industrial unit of printing and fabrication at IMT Manesar, and petitioner No. 3 (Satish Chand), who is a resident of New Delhi, runs an industrial unit at Gurugram under the name and style of Spring Overseas.

[2] By filing the present petition under Article 226/227 of the Constitution of India, the petitioners seek issuance of a writ in the nature of certiorari, quashing the decision of respondent No. 4 (Haryana Power Purchase Centre, Panchkula) to purchase solar power from respondent No. 5 (Amlus Sun Solutions Pvt. Ltd., Gurugram, Haryana) through negotiation mode; **further challenge** the consequent order dated 14.09.2020 (**Annexure**

P-2) passed by respondent No. 3 (Haryana Electricity Regulatory Commission, Panchkula), permitting the same, being arbitrary / *mala fide* / biased in manner and contrary to the provisions contained in the Electricity Act, 2003; **as also** to direct respondent Nos. 4, 6 & 7 to adhere to the provisions contained in the National Tariff Policy, 2016 and the Haryana Solar Policy, 2016 and consequently, to procure solar power only through the competitive bidding mode.

[3] The present petition, upon a reference, has been placed before us in the light of the views expressed by a learned Single Judge of this Court vide order dated 09.10.2020 that the petitioners are not the only ones who may be affected with the service to be provided by respondent No. 5 affecting the public at large in the entire State of Haryana, present petition to be treated as Public Interest Litigation (PIL). The relevant part of the said order dated 09.10.2020 is as under:-

“ XXXX

*Today learned counsel for the petitioners refers to a judgment of the Supreme Court in **Gujarat Urja Vikas Nigam Ltd. V. Solar Semiconductor Power Co. (India) Ltd. and others**, (2017) 16 SCC 498, to submit that though of course in the present petition, the petitioners' own interest is also involved, in view of the fact they are consumers in the area in question, but it would also be in the larger public interest, and eventually it would be for this court to decide as to whether this petition should be treated as a Public Interest Litigation, or otherwise.*

He also submits that even under the Act of 2003, it is obligatory on the State Electricity Regulatory Commission to take into account the interest of the consumers but with the Commission not having actually considered the interest of the consumers, respondent no.5 has been allowed to charge the consumers higher amounts than may be charged by an equally competitive company.

That being so, in my opinion, though the petitioners may be directly affected by the action of the Commission and the other respondents, and may therefore have locus standi in the matter, however, as they are not the only ones who may be affected, with the service to be provided by respondent no.5 affecting the public at large in the entire State of Haryana, this petition still 'qualifies' to be treated as public interest litigation.

Consequently, this petition is ordered to be treated as Public Interest Litigation, to be put up before a Division Bench as would be considering such matters. "

[4] In view of the subsequent orders passed by respondent No. 3 (*Haryana Electricity Regulatory Commission, Panchkula, Haryana*) stipulating the tariffs for supply of solar energy from the private players, the present petition needs to be amended. Accordingly, counsel for the petitioners **prays** for permission to **withdraw the present petition** to enable his clients to file a fresh one to challenge the subsequent orders as well.

Permitted to do so.

Dismissed as withdrawn with the liberty, as prayed for.

(JASWANT SINGH)
JUDGE

February 18, 2021
'dk kamra'

(SANT PARKASH)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>