

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

251

**CWP-3758-2022(O&M)
Date of decision:01.09.2022**

UTTAM PAL

....Petitioner

Versus

MANAGING DIRECTOR, DAKSHIN HARYANA BIJLI VITRAN NIGAM
AND ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. Shushil Sheoran, Advocate
for the petitioner.

Mr. Vivek Chauhan, AAG Haryana.

VINOD S. BHARDWAJ. J. (ORAL)

The instant writ petition has been filed under Article 226/227 of the Constitution of India, 1950 in the nature of Certiorari for quashing the impugned letter/order dated 31.12.2021 passed by respondent No.4 which is in violation of circular No.D-36/2021 dated 03.09.2021.

Learned counsel for the petitioner submits that the petitioner had applied for release of agriculture tubewell connection vide application No.20418 AP in the office of SDO Dakshin Haryana Bijli Vitran Nigam(DHBVN) Badhra, District Charkhi Dadri and also deposited the security amount of Rs.1500/- along with the said application. Despite being the senior most applicant in the list, the department had not released

the tubewell connection to the petitioner and the persons who were junior to the petitioner were granted the said benefit. Vide letter dated 17.04.2017, the petitioner was informed that in view of the sale circular No.D8/2017 dated 01.02.2017, the area of Badhra Block having been declared as a notified area in the dark zone, connection could not be released to him and the refund of the amount was directed. The petitioner was called upon to collect the amount so deposited by him with the Nigam.

Since the claim of the petitioner was that tubewell connection was granted to the persons who were lower to the petitioner in the list maintained by the respondents, he preferred a complaint No.73/2017 before the District Consumer Disputes Redressal Commission, Charkhi Dadri on 09.05.2017, after the receipt of the order communicating the decision of the respondents to refund the security amount in compliance of the notification. The prayer made in the aforesaid complaint was for release of the electricity connection and for seeking compensation for deficiency in service on the part of the respondents in releasing the electricity connection.

The stand adopted by the respondent-department before the District Consumer Disputes Redressal Commission was that the area of Badhra Block has been declared as a dark zone and resultantly it was a notified area, where tubewell connections could not be released. Considering the aforesaid stand and a declaration of the zone of Badhra as a dark zone, the District Consumer Disputes Redressal Commission directed the alternative relief of compensation to the petitioner after recording a finding that there was severe negligence and deficiency on the

part of the respondent-department. The judgment passed by the District Consumer Disputes Redressal Commission, Charkhi Dadri dated 11.08.2022 is attached as Annexure P3.

The sale circular which was relied upon by the respondent distribution licensee bearing Sale Circular No.8/2017 is attached as Annexure P4. The relevant extract read thus:-

The matter has been re-considered by Worthy PS (Power) and it has been decided that in future, no agriculture tubewell connection should be released in the notified areas. In case where any amount for release of tubewell connection in the notified area has already been deposited by an applicant under General or Tatkal Scheme but the connection has not yet been released, the amount deposited shall be refunded.

Learned counsel contends that the respondent distribution licensee has thereafter issued sale circular No.D-36/2021 dated 03.09.2021, whereby, tubewell applications applied up to 31.12.2018 were considered for release. It was also incorporated in the aforesaid sale circular that all such applications that had been cancelled by the sub-divisions at the initial stage on the pretext of “notified area” were to be given equal opportunity by reviving them, by the Superintending Engineer (Operation) concerned. The relevant extract reads thus:-

Resultantly, all new tubewell applications applied upto 31.12.2018 in the notified area shall now be considered for release. Besides this, all such applications those have been cancelled by the sub-divisions at the initial stage on the pretext of notified area shall also be given equal opportunity by reviving them by the SE(OP) concerned. The activity of reviving tubewell applications shall be completed by 20.09.2021.

It has been argued by learned counsel for the petitioner that even though the said sale circular mandated the Superintending Engineer (Operations) to revive all the applications where the rejection had followed on account of the area being notified as a dark zone, yet, the case of petitioner was not being considered as per his seniority even though the application along with the requisite money has been deposited by the petitioner. The application was submitted by the petitioner on 08.09.2021 and was forwarded by respondent No.5 on 06.10.2021. The petitioner was required to deposit the necessary charges, however, when the petitioner went to the office of SDO DHBVN Badhra to deposit an amount of Rs.30,000/- in cash along with the affidavit in compliance of the formalities, the said documents were not accepted on the premise that the petitioner had filed a complaint before the District Consumer Disputes Redressal Commission. Consequently, a legal notice was sent to the respondents.

Learned counsel contends that even though the petitioner was senior most in the original list for seeking release of agriculture connection, however, the application submitted by the petitioner is not being revived solely because the petitioner had earlier approached the District Consumer Disputes Redressal Commission for redressal of his grievance and for seeking release of the electricity connection, while other persons who were lower in the seniority as compared to the petitioner and whose security was refunded pursuant to the Sale Circular D-8/2017 have already been granted the connection pursuant to the directions issued in Sale Circular No.D-36/2021.

Reply on behalf of respondents was filed, wherein, the respondents have taken a stand that the petitioner had filed the complaint case No.73/2017 before the District Consumer Disputes Redressal Commission, Charkhi Dadri and the complaint was allowed. The amount in question along with the compensation and security was refunded pursuant to the said order and the case of the petitioner was closed upon payment of the amount. He submits that the petitioner having accepted the refund amount along with compensation and litigation expenses as awarded by the District Consumer Disputes Redressal Commission, his security stands extinguished and that he has to apply afresh under the new policy and the case shall be considered as per only his newly determined seniority.

I have heard learned counsel for the respective parties and have gone through the record. I find myself unable to agree with the submissions advanced by learned counsel for the respondents. The stand adopted by the respondent authorities is reflective of bureaucratic mindset intending to harass and penalize a citizen for having taken recourse to his constitutional remedies in accordance with law.

It is not in dispute that a communication directing refund of the security had already been sent to the petitioner in April 2017 and that the consumer complaint before the District Consumer Disputes Redressal Commission was instituted thereafter. The prayer made by the petitioner was for release of the electricity connection and not for waiver/subjugation of his right. It was only on account of the stand adopted by the respondents that the electricity connection could not be released since the area was notified as dark zone and the alternative relief of compensation

and refund of the security was ordered by the District Consumer Disputes Redressal Commission. It is thus not a case where the petitioner had waived of his right or had given up his claim for seeking relief of compensation.

Once the respondents decided to revive all pending cases where applications had been made prior to 31.12.2018, the case of the petitioner could not have been singled out merely because he happened to file complaint against the respondents, whereas, other similarly placed persons who had been directed refund of the security, but had chosen not to institute any proceedings seeking release of the electricity connection, had been given benefit of the said security. Invariably, it is an attempt on the part of the respondent authorities to punish a citizen/consumer for having approached the process of law which is being regarded as defiance of their authority. Such a conduct on behalf of the agencies and instrumentalities of the State, to take a measure which is punitive in nature merely for approaching the Court as per law deserves to be deprecated.

The sale Circular D-36/2021 mandates universal revival of all prior applications and does not create any exception. Such a reading within the circular is clearly an attempt by over enthusiastic sadistic officials to deny to a consumer, the benefits that have been restored by the authorities. Ordinarily, this Court would have been inclined to impose cost on such public servants, however, taking into consideration the fact that the same would have further delayed adjudication of the petition, such order is not being passed.

Secured source of irrigation is undoubtedly a life-line for a farmer. Wrongful denial and deprivation of the same only compounds the agony of a farmer. It is indeed a time when the official machinery needs to interpret a welfare measure/benevolent scheme with an object to enhance the purpose of the scheme, rather than devising ways and manipulating interpretation intending and promoting deprivation of such benefits.

Accordingly, the present petition is allowed and the impugned order dated 31.12.2021 (Annexure P-9) is set aside. Respondents are directed to release electricity connection in favour of the petitioner within a period of 30 days and upon the requisite charges/expenses as per the circular being paid. The aforesaid period is prescribed taking into consideration, the fact that the persons who were lower than the petitioner in the seniority have already been granted the electricity connection and the scheme of Electricity Act, 2003 provides a period of 30 days for release of connection under Section 43 upon compliance of Rules and Regulations.

(VINOD S. BHARDWAJ)
JUDGE

01.09.2022
Amandeep

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No