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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Decided on: August 25, 2022.

(1) CWP-14011-2015 (O&M).

Uttar Haryana Bijli Vitran Nigam and another

.. Petitioners

VERSUS

The Consumer Grievances Redressal Forum and another

.. Respondents

***

(2) CWP-14018-2015 (O&M).

Uttar Haryana Bijli Vitran Nigam and another

.. Petitioners

VERSUS

The Consumer Grievances Redressal Forum and another

.. Respondents

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(3) **CWP-421-2016 (O&M).**

Uttar Haryana Bijli Vitran Nigam and another

.. Petitioners

VERSUS

The Consumer Grievances Redressal Forum and another

.. Respondents

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

PRESENT **Mr. R.S. Longia, Advocate,**
for the petitioners.

Mr. S.S. Narula, Advocate,
for the respondent No.2 in CWP-14011-2015 and CWP-14018-2015

VINOD S. BHARDWAJ, J. (ORAL)

This order will dispose of the above noted three petitions as the parties agree that a common question of law arises for adjudication in these three petitions.

2. For the facility of reference facts are being referred to from CWP No.14011 of 2015.

3. Briefly, the factual dispute that arises for adjudication in the present case relates to industrial electric connection bearing Account No.SM/5-45(P25-LSO1-1025); No.P25-LSO1-1024) (SM/5-41) and No.P25-LSO1-1023) (SM/5-38), under the SDO, Operations, Sub Division,

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Israna, of large supply for running industrial unit of respondent No.2. Originally, the supply was given to respondent No.2 from 33 KV Untha line from 400 KV, BBMB, Sewah, Model Town, Israna, that was used to feed 22 HT Connections of 4 Sub Divisions, namely Beholi, Model Town, Sanoli Road and Israna. The said feeder was overloaded and highly prone to breakdowns. In view of receipt of frequent complaints and demands from the consumers being served from that feeder, a proposal for bifurcation of the feeder was sent by the petitioner No.1 - UHBVNL for sanction of the same to the Competent Authority. After grant of necessary approval, the said feeder was bifurcated and a total of 5 consumers including respondent No.2 (herein these petitions) were provided an independent feeder in that Sub Division after incurring a huge expenditure. The line was bifurcated by Baholi Sub Division. The same was treated as an independent feeder by the said Sub Division and a separate feeder line was erected and commissioned. A common master meter was also installed on 20.03.2014 to monitor the total supply of the 5 consumers. In the bills commencing from 05/2014 onwards, a huge difference between supply and consumption was recorded when bills of all the 5 consumers were computed together. Resultantly, the losses so reflected were added proportionately to all the consumers and the respective consumers (respondent No.2 herein) were billed to compensate for the consumption of metered energy as per the master meter.

4. It is contended on behalf of the petitioners that as the said five connections were treated against an independent feeder, hence, the

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consumers were covered as per the sale circulars U-19/2012 and U-62/2013 and that in terms of the aforesaid sale circulars, the consumers having connections on an independent feeder had to bear the proportionate line losses.

5. The proportionate demands towards line losses made from the respective consumers, was a subject matter of challenge before the Consumer Grievances Redressal Forum. In the said complaint, respondent No.2 – complainant therein had contended that the feeder in question is not an independent feeder and that it is instead a general feeder and that they are only one amongst the other beneficiaries deriving electricity connection from the same. It was claimed that the petitioner No.1 - UHBVNL was not entitled to recover the proportionate amount of line losses from the consumers.

6. Upon notice given by the Consumer Grievances Redressal Forum to the distribution licencee, a response was submitted by it wherein it reiterated the aforesaid submissions noticed earlier in the foregoing paragraphs. The Consumer Grievances Redressal Forum considered the facts/material available on record and came to a conclusion that the complainant had not applied for any independent feeder nor had they deposited any cost with the respondent which was mandated as per the sale circular before any independent feeder is to be installed. It was also noted that the feeder was got bifurcated by the petitioner – UHBVNL itself on technical grounds of being overloaded and recurring complaints of

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breakdowns resulting in substantial increase in the operational costs. It was thus held that the sale circulars relied by the petitioner - UHBVNL are not applicable on the concerned feeder since it did not fall within the description of an independent feeder as per the applicable sale circulars.

7. Having observed so, it was held by Consumer Grievances Redressal Forum to treat the connections of the consumer – respondent No.2 herein on a general feeder and the bills to be collected accordingly from the complainant - respondent No.2. The relevant extract of the finding so recorded by the Consumer Grievances Redressal Forum is reproduced hereinbelow:-

> *"The Forum considered all the facts/material available on the record and observed as under :*
> *1. Originally 33 KV Untla feeder which feeds 22 nos. of HT connection was a general feeder.*
> *2. Feeder got bi-furcated on technical ground being overloaded and highly prone to breakdown and not on consumer request.*
> *3. The complainant did not apply for independent feeder nor he had deposited any cost with the respondent.*
> *4. Sale Circular No.19/2012 and 62/2013 are applicable on independent feeder not on general feeder."*

8. Aggrieved thereof, the present petitions have been preferred.

9. Learned counsel appearing on behalf of the petitioners contends that the distribution licensee had always treated the aforesaid

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feeder as an independent feeder and had not released any other connection except for the above five consumers from the said feeder. It was rather in the benefit of the aforesaid consumers and that they have significantly derived the benefit on account thereof. They have availed longer duration of uninterrupted and assured power supply and hence, they are obligated to pay the proportionate expenses towards the line losses as there were no other consumers who were deriving energy from the said independent feeder or could be held liable for the loss.

10. Per contra, learned counsel appearing on behalf of respondent No.2 contends that sale circular U-19/2012 deals with the billing of the consumers connected on independent feeders. A reference is also made to the sale circular U-62/2013 to contend that an independent feeder is to be installed only on a request made by the consumer and that no such request was made by respondent No.2 – complainant herein. He further contends that before a feeder can be labeled as an independent feeder, the requisite charges are required to be deposited by the person availing supply from an independent feeder and that no such charges were deposited by respondent No.2. Hence, there is no valid basis for the respondent authorities to treat the aforesaid feeder as an independent feeder.

11. I have heard the learned counsel appearing on behalf of the respective parties and have gone through the documents attached with the pleadings.

12. A reference is necessary to be made to sale circular

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No.U-62/2013 dated 23.12.2013 vide which guidelines for sanction of independent feeder in compliance of the notification dated 24.09.2013 issued by the HERC on, clause 4.5.3 (Supply of Electricity through an independent feeder) Regulations were amended. It shows that construction of an independent feeder was prescribed for in sale circular No.U-03/2012 dated 15.03.2012. In continuation thereof sale circular No.U-19/2012 dated 12.07.2012 was issued by the petitioners. The relevant clause of the aforesaid circular No.U-03/2012 which is appended along with the present petition as Annexure R2/1 shows the approval of the draft by the full time directors of petitioner No.1 – UHBVNL. The relevant part is extracted as under:-

> *" On the persistent demand of Industrialist/ Institutions and to have parity in both the utilities, the matter has been reviewed and decided by the Board of Director's in its meeting held on 12.01.2012 that for individual/group of consumers, the independent feeder would be allowed having load 250 KW and above. Further, the draft was approved by WTDS in its meeting held on 02.03.2012.*
>
> *The others terms and conditions/Guidelines are as given below:*
>
> *1. The Independent feeder would be allowed only when there is no problem of any sort for laying of independent feeder i.e. right of way.*

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2. The option of having exclusive independent feeder from UHBVN shall be available to the consumers who deposit the full cost of constructing such feeders which includes cost of 11 KV line/feeder from sub-station to the consumer premises up to meeting equipment, VCB. Auto Reclosure and other allied material at the sub-station required for connection and controlling the independent feeder. The department charges as applicable shall be levied on the total cost of the estimate of the works to be carried out by the Nigam.

xxx xxx xxx

4. The consumers having independent feeder shall not have an exclusive right over the teeder. Nigam may allow additional connections on the feeder if so desired. Feeder erected at the cost of the consumer shall become the property of the Nigam after energisation.

xxx xxx xxx

8. As per HERC Regulation no.HERC/12/2005 dated 26th July 2005 on duty to supply electricity on request. Power to recover expenditure incurred in providing supply & power to require security sub regulation. 4.5.3. The billing of the consumer connected on independent feeder shall be made on the basis of energy meter installed at the S/Stn. The reading of the meter installed at the consumer premises should also be taken for comparison purpose. Operation staff should conduct accucheck on consumer meter every month and the MAP Staff should conduct accucheck on feeder meter every month.

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9. For Group of Industrial consumers, the consumption of the energy by recorded from the energy meter installed at the consumer premises. However for energy audit purpose, the consumption recorded by the substation meter and the energy recorded by the energy meters at the consumer premises be compared. If variation exceeds 2% then after checking of all the consumers on the feeder by the M&P Wing, the meters will be installed.

10. That any independent feeder erected at the request of an applicant becomes the property of the Nigam as per clause 4.7 of the HERC regulation no. HERC/12/2005 but the cost initially incurred by the original applicant should be shared by other consumers while tapping the independent feeder.

The sharing of cost will be as given below.

e.g. A ____________ *C* __________ *B*

D

Suppose cost of line from point A to B = X
Cost of line from point A to C = Y
Cost of line from point C to D = Z

Now the new applicant wants tapping from the independent feeder will have to share the cost to the original consumer is Y/2 and the new applicant will bear the cost i.e. Y/2 + Z and like wise others (the cost

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sharing fa restricted to second consumer only as after that it will become a group of industrial feeder).

While tapping the independent feeder of new connection, the proportionate cost payable by the new consumer to the original consumer cannot be more than the estimated cost of the Nigam. In case of disputes of cost, Nigam estimated cost will be the maximum cost payable.

The feeder length should be maximum 5 Kms. The connections on the Independent feeder will be released keeping in view that line losses should not exceed 3%.

13. Furthermore, sale circular No.U-19/2012 contemplates as under:-

"In case more than one connection is released for the Independent feeder, the basis of billing will continued to the energy recorded by the energy meter provided at the S/Stn. and the losses between the energy recorded by the S/Stn. energy meter and the energy meters installed at the respective premises of the consumer(s) shall be apportioned on a pro-rata basis, in proportion to their consumption, amongst the consumers irrespective of the distance of the feeder."

14. Clause 4.5.3 of the regulations framed by the HERC as amended and incorporated in sale circular No.U-62/2013 reads thus:-

"4.5.3 (i) In case the applicant requests for supply of electricity through an independent feeder, the charges of

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controlling circuit breaker, metering cubicle complete with CTs & PTs and Meter and terminal equipment required at the sub station-end, electric line up to the metering cubicle, electric plant and metering cubicle complete with CTs, PTs & meter at the consumer-end shall be borne by the applicant/consumer.

Such consumer, who on his own, requests for supply of electricity through an independent feeder, will be billed as per the meter reading taken jointly by consumer and the Licensee, of the meter placed at the sub-station from where the independent feeder is emanating. The licensee will inform the consumer through phone / SMS to be present for joint reading of meter. In case the consumer fails to be present, it will be treated as deemed to be present for meter reading. The installation of metering arrangements at the consumer-end would be optional and would be in addition to the meter at the sub-station. However, for billing purposes only the sub-station meter reading shall be used.

xxx xxx xxx

4.5.3 (iii) The Regulation 4.5.3 (ii) will be applicable as long as the number of consumers connected on an independent feeder are restricted to five only with ceiling of 250 ampere load current on 11kv feeder.

Where more than five consumers are connected on an independent feeder, that feeder shall be considered as general feeder and the billing to the consumers shall be done based on the consumption recorded by the meters installed at the consumers premises.

The differential cost i.e. the cost of the feeder incurred by the consumers on the independent feeder

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minus service connection charges levy able from them shall be adjusted in the future bills of the original consumer (s).

The additional consumer required to be connected on such general feeder, shall deposit the service connection charges as per the regulation.

4.5.3 (iv) As long as the status of the feeder remains independent, the meters installed at the sub-station and at the consumer premises shall be read by the Discom on the same day in the shortest possible time associating the consumer's representative.

The apportionment of the feeder losses among the consumer on the independent feeder shall be done in proportion of their consumption as per the meter installed in their premises irrespective of the distance of the consumer on the feeder. Thus the consumer shall be billed as per regulation 4.5.3 (ii)."

15. A perusal of the aforesaid circulars issued by the petitioners show that an independent feeder is to be allowed only on a request being made by a consumer and such charges as may be so assessed are deposited by him. It has not been disputed by the learned counsel appearing on behalf of the petitioner that no such request had been furnished by the respondents – consumers in the present case and that the charges stipulated in the Regulations required to be collected from the beneficiaries under the independent feeder had not been collected. It is also not disputed that the proposal for bifurcation of the feeder was an initiative

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undertaken by the petitioners themselves and was not on the basis of any request submitted by the respondents – consumers herein.

16. In view of the above, it cannot be safely labeled that the feeder in question fulfills the pre-requisites of an independent feeder contemplated under the sale circular issued by the petitioner. In the absence of the feeder falling within the category of an independent feeder as per the parameters prescribed in the sale circular issued by the petitioner, the petitioner No.1 - UHBVNL, would not be entitled to seek recovery of any proportionate line losses from the consumers on the strength of the said circulars. An independent perception carried by the officials of the petitioner No.1 - UHBVNL cannot be the basis to burden the consumer, who had never sought any supply from an independent feeder, by taking aid of the said circulars.

17. Once a demand is claimed to be founded in a circular, it has to be established by the petitioner that the respondents – consumers actually are covered under the Statute and the regulations framed thereunder. It would not be sufficient to claim line losses in such a manner. The respondents are otherwise liable for the payment of energy bills only. Liability of line losses is a creation of the sales circulars which are, however, not applicable to the respondents – consumers for want of pre-requisites.

18. No illegality, infirmity, perversity or impropriety in the order passed by the respondent No.1 - CGRF has been pointed out by the

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learned counsel appearing on behalf of the petitioners which may render the order liable to be set aside.

19. In view thereof, present set of three petitions are dismissed.

August 25, 2022. **(VINOD S. BHARDWAJ)** **raj arora** **JUDGE**

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

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