

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

214

**CWP-3990-2017 (O&M)
Date of decision: 12.09.2022**

DAKSHIN HARYANA BIJLI VITRAN NIGAM LTD. SIRSA

.....Petitioner

VERSUS

PERMANENT LOK ADALAT(PUBLIC UTILITY SERVICES)
SIRSA & ORS

.....Respondents

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

Present:- Mr. Baldev Raj Mahajan, Advocate with
Mr. Arvind Seth, Advocate
for the petitioner.

Mr. G.P.Singh, Advocate
for respondents No.1 and 2.

Mr. Kushagara Beniwal, Advocate
for respondents No.3 & 4.

VINOD S. BHARDWAJ, J. (Oral)

The present writ petition had been instituted raising a challenge to the order dated 15.12.2016 (Annexure P-14) passed by the Permanent Lok Adalat (Public Utility Services), Sirsa to the extent whereby the petitioner had been asked to recover the sum of Rs. 31 lakhs from the developer society viz. Respondents No.3 & 4.

2. Briefly summarized, the dispute involved in the present case relates to a project floated by the respondent-company and a single point electricity connection had been released by the petitioner-distribution licensee. The individual meters were thereafter released to the allottees by the Developer himself. In the month of April, 2016, the

company moved an application to the Superintending Engineer, DHBVN, Sirsa claiming that they were unable to provide the electricity charges and prayed for providing individual consumption connections to the residents of the Society.

3. The residents-members of the respondent No.2-Association also filed an application under Section 22 (c) of the Legal Service Authority Act before the Permanent Lok Adalat (Public Utility Services), Sirsa. Upon consideration of the rival submissions of the parties, the application was allowed and the petitioner was directed to release the electricity connection in favour of the residents on their deposit of Rs. 19 lakhs. The relevant extract of the said award reads thus:

“7. It is an admitted fact that respondents No.2 & 3 have taken bulk supply electric connection from respondent No. 1 vide account No. 6368870000. Petitioner-Society is the sub consumer of electricity under respondents No. 2 and 3. Earlier there was a dispute between the petitioner and respondents No. 2 and 3 about share of the amount of pending electricity consumption charges, which has been resolved between them amicably and they have got recorded their statements in this regard. In view of the statements of the representatives of the parties, it stands proved on the file that upto 19.11.2016 a total sum of Rs. 50,00,000/- on account of electricity consumption charges was due towards respondents No.2 and 3. Out of this amount Rs.19,00,000/- was due towards the petitioner and the remaining amount of Rs. 31,00,000/- was due towards respondents No. 2 and 3. The petitioner is ready to deposit Rs. 19,00,000/- with the Nigam, which was undisputably outstanding towards them. Remaining amount of Rs. 31,00,000/- is to be deposited by

respondents No. 2 and 3 with the Nigam but they have some dispute with respondent No. 1 about the fixed charges levied by Respondent No. 1-Nigam. Respondent No. 1 is ready to install meters at the individual houses of the allottees of the residents of the society in compliance with the letter dated 6.10.2016. As the petitioner society is ready to deposit Rs.19,00,000/- with the Nigam, which was their undisputed share of Rs. 50,00,000/-. Therefore, we are of the opinion that the members of the petitioner-society are entitled for the release of individual electric connections to their residences.

8. Net result of the above discussion is that this petition succeeds and is hereby allowed directing the petitioner to deposit Rs. 19,00,000/- and other charges, if any required for the release of electric connections, within a period of 15 days with the Nigam. Respondent No. 1 is directed to release the individual connections to the members of the petitioner-society after receiving the amount of Rs. 19,00,000/-. The liability of remaining Rs. 31,00,000/- pertains to Respondent No. 2 and 3, which the nigam can recover from them as per law. In case they fail to deposit the same. Stay application accordingly stands disposed of. A copy of this award be supplied to the parties free of costs. File be consigned to the records after due compliance.”

4. The instant petition was thus filed raising a challenge to the said award. The matter came up for hearing on 01.03.2017 wherein, while issuing notice of motion, an interim stay qua release of connection was granted and the petitioner distribution licensee was also restrained from disconnecting the electricity connections already released, subject to clearance of existing usage and consumption charges.

of the petitioner contends that the petitioner Nigam has already taken a conscious decision in its meeting held on 05.04.2019 whereby it has been decided to release individual connections to the consumer on the condition that the residents deposit the outstanding amount of Rs.56,95,507/-. It is further decided that insofar as the electricity connection in the name of developer bearing Account No. 6368870000 is concerned, the amount of Rs. 66,67,512/- outstanding against the said connection the same shall be recovered from the concerned developer. The relevant extract of the said additional affidavit filed on behalf of the petitioner is reproduced hereinafter below:

3. *That during the pendency of the present writ petition, petitioner-nigam in its Board Meeting held on 05.4.2019 vide Item No. 185.11 took a decision to release individual connections on the condition to deposit the outstanding amount of Rs. 56,95,507/- and the same has been paid to the nigam and the connections were reconnected.*

4. *That, it is relevant to submit here that the electricity connection bearing Account No. 6368870000 in the name of Town Ship Laurel Garden 1st, through which the consumers consumed the electricity was disconnected vide Permanent Disconnection Order (PDCO) dated 08.06.2020.*

5. *That an amount of Rs. 6667512 is outstanding against the electricity connection account No.6368870000 in the name of Town Ship Laurel Garden 1st. A notice dated 17.3.2022 has been given asking the consumer to deposit an outstanding amount of Rs.6667512. A copy of the notice is annexed herewith as Annexure P-18. Therefore, petitioner may kindly be given the liberty to recover the said amount as per law.”*

6. It is thus argued that without prejudice to the rights of the petitioner to recover the arrear/outstanding against the developer, a decision having already been taken to release individual connections to the residents of the township, no further grievance of the respondent No.2 and/or the members of the said association survives.

7. The aforesaid submission of the petitioner is not objected to by the counsel appearing on behalf of the respective respondents.

8. In view thereof, the present petition is disposed of as not pressed at this stage. The petitioner Board shall remain bound by the averments as contained in the additional affidavit of Mohan Lal, SDO, OP City, Sub Division, DHBVN, Sirsa dated 11.09.2022 filed in Court today and to release individual connections in accordance therewith. Anything averred hereinabove should not be construed as an expression on merits of the enforceable liability viz-a-viz. the petitioner as well as the developer and the parties shall have the liberty to seek adjudication of their claims and to have the same settled in accordance with a manner known to law.

The petition is disposed of.

(VINOD S. BHARDWAJ)
JUDGE

SEPTEMBER 12, 2022

Vishal sharma

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