

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

105

**CWP-29946-2022 (O&M).
Date of Decision: 23.12.2022.**

Ali Hasan

...Petitioner

Versus

Uttari Haryana Bijli Vitran Nigam Limited and others

...Respondents

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

Present: Mr. Satish Chaudhary, Advocate for the petitioner.

VINOD S. BHARDWAJ. J (ORAL).

The present writ petition has been filed under Articles 226/227 of the Constitution of India, 1950 seeking quashing of the impugned orders/reply to the Legal Notice dated 28.07.2022.

Learned counsel appearing on behalf of the petitioner argues that the petitioner has been allotted 100 sq. yards plot under Indira Awas Yojna vide Resolution dated 15.04.2008 passed by the Gram Panchayat Baindi Block Raidaur, District Yamuna Nagar, under Section 5 of the Punjab Village Common Lands (Regulation) Act, 1961 read with Rule 13 of 1964 Rules. He contends that the petitioner had applied for the electricity connection and that instead of electricity

supply being made from the domestic supply connections, the petitioner has been granted electricity supply from the agriculture feeder.

A legal notice was sent by the petitioner to the respondent authorities for release of the electric connection from the domestic supply transmission lines. The aforesaid legal notice was responded to by the UHBVN pointing out that there is no LT/HT line in the area where the petitioner had applied for the electricity connection and in the absence of any LT/HT line, the actual expenditure for facilitating supply of electricity connection has to be borne by the applicant. It was thus responded to that in the event of the applicant agreeing to contribute to pro rata charges for extending the LT/HT line and the proportionate costs of distribution transformer, the same shall be released. The petitioner has failed to deposit the same.

Learned counsel for the petitioner contends that the petitioner is a poor person and is not in a capacity to collect the amount for depositing with the electricity Department for extending the facility.

I have heard learned counsel appearing on behalf of the petitioner and have gone through the documents appended with the petition as also the arguments advanced by him.

Section 43 of the Electricity Act, 2003, mandates the distribution licensee to extend supply to the applicant on request. The requirement, however, is that where such supply requires extension of distribution means or commissioning of Sub Station etc., the requisite charges are to be deposited by the applicant. The aforesaid provision is duly contemplated under Section 45 of the Electricity Act, 2003. The relevant Sections are extracted as under:-

“Section 43. (Duty to supply on request): --- (1) [Save as otherwise provided in this Act, every distribution] licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply:

Provided that where such supply requires extension of distribution mains, or commissioning of new sub-stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission:

Provided further that in case of a village or hamlet or area wherein no provision for supply of electricity exists, the Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.

[Explanation.- For the purposes of this sub-section, “application” means the application complete in all respects in the appropriate form, as required by the distribution licensee, along with documents showing payment of necessary charges and other compliances.]

(2) It shall be the duty of every distribution licensee to provide, if required, electric plant or electric line for giving electric supply to the premises specified in sub-section (1) :

Provided that no person shall be entitled to demand, or to continue to receive, from a licensee a supply of electricity for any premises having a separate supply unless he has

agreed with the licensee to pay to him such price as determined by the Appropriate Commission.

(3) If a distribution licensee fails to supply the electricity within the period specified in sub-section (1), he shall be liable to a penalty which may extend to one thousand rupees for each day of default.

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Section 45. (Power to recover charges): --- *(1) Subject to the provisions of this section, the prices to be charged by a distribution licensee for the supply of electricity by him in pursuance of section 43 shall be in accordance with such tariffs fixed from time to time and conditions of his licence.*

(2) The charges for electricity supplied by a distribution licensee shall be –

(a) fixed in accordance with the methods and the principles as may be specified by the concerned State Commission ;

(b) published in such manner so as to give adequate publicity for such charges and prices.

(3) The charges for electricity supplied by a distribution licensee may include

(a) a fixed charge in addition to the charge for the actual electricity supplied;

(b) a rent or other charges in respect of any electric meter or electrical plant provided by the distribution licensee.

(4) Subject to the provisions of section 62, in fixing charges under this section a distribution licensee shall not show undue preference to any person or class of persons or discrimination against any person or class of persons.

(5) The charges fixed by the distribution licensee shall be in accordance with the provisions of this Act and the regulations made in this behalf by the concerned State Commission.

Section 46. (Power to recover expenditure): *The State Commission may, by regulations, authorise a distribution licensee to charge from a person requiring a supply of electricity in pursuance of section 43 any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply.”*

The contention of the petitioner that the petitioner is a poor person and cannot afford the payment of such charges cannot be an acceptable ground at this stage to direct the release of electricity connection without seeking pre-deposit of the expenses as approved by the Appropriate Commission and as mandated under the Electricity Act, 2003. The same at best is a matter of State policy and unless such State policy has been brought in frame, no such direction can be issued to the respondent Electricity Department to release the connection without deposit of the statutory charges/expenditure by the persons claiming release of electricity supply under the LT/HT distribution system.

Learned counsel for the petitioner also could not refer to any Sale Circular/Government policy under which the persons/beneficiaries of allotment of plots under the Below Poverty Line are entitled to exemption from payment of statutory charges under the Electricity Act, 2003, for seeking release of the connection. In the absence of any such State Policy or Sale Circular issued by the

respondent Distribution Company, it would not be possible for this Court to direct release of electricity connection by ignoring the mandatory provisions of the Electricity Act, 2003. The present petition is accordingly found to be without any merits. The petitioner may, if so advised, approach the concerned authorities which may consider the case of the petitioner as per appropriate policy as and when so framed by the competent authority.

Disposed of accordingly.

December 23, 2022
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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