

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

257

CWP-22967-2021 (O&M)
Date of decision: 16.08.2023

SHAM SUNDER

.....Petitioner

VERSUS

PSPCL AND OTHERS

.....Respondents

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

Present:- Mr. Ivan Singh Khosa, Advocate
for the petitioner.

Mr. Rishabh Gupta, Advocate
for the respondents-PSPCL.

VINOD S. BHARDWAJ, J. (Oral)

Prayer in the present petition was for seeking issuance of directions to the respondents to restore the electricity connection installed at Plot No. 32-33, Tajpur Road, Mahavir Jain Colony, Ludhiana which was disconnected by the respondents.

2 Counsel for the petitioner contends that the petitioner is owner of a sole proprietorship firm having its registered office at the above address. The electricity connection of small power category with a sanctioned load of 19.96 kw was installed at the above said property. The petitioner decided to start a new production unit for which installation of a new machinery in the plot was required and load was to be increased. Accordingly, the petitioner submitted an application for extension in load by 78.96 KW under the M.S category. The requisite fee of Rs. 65,080/- was also deposited with the respondents on

06.10.2020. The officials of respondent No.1 –PSPCL visited the premises on 12.12.2020 to prepare the estimate cost to be deposited for extension of load and the officials had no objection to the increase of sanctioned load as per demand. The petitioner requested the respondent-PSPCL that the machinery ordered was likely to arrive in the month of February and hence the request for extension of load may be honoured and additional load be released within the time and in any case before the machinery arrives. A visit was made by the officials of respondents and the petitioner was informed that his transformer had been upgraded to 100 kw and that he can install the machinery. The officials of respondent No.1 however demanded a sum of Rs. 25,000/- from the petitioner in the name of 'Tatkal Scheme' for extension of load. The machinery as ordered was delivered to the petitioner on 22.02.2021.

3. The premises of the petitioner were inspected by a team of the officials of the respondent-PSPCL who are alleged to have obtained signatures of the petitioner on certain papers. A demand vide letter No. 747 dated 23.01.2021 for a sum of Rs. 24,85,999/- was conveyed to the petitioner. An FIR No. 214 dated 24.02.2021 was also registered at Police Station, Anti Power Theft, Ludhiana against the petitioner. It has been alleged that on coming to know of the registration of the said case, the petitioner preferred anticipatory bail whereupon the Special Court directed the petitioner to deposit the 35% of the impugned demand. Aggrieved of the aforesaid condition imposed by the Special Court Ludhiana, the petitioner approached this Court by filing CRM-M-11901-2021 titled as “*Sham Sunder versus State of Punjab and*

others”. The stay on the said order was initially granted.

4. In the meanwhile, yet another FIR bearing No.262 dated 10.03.2021 was registered against the petitioner in which the petitioner was granted bail. A Civil Suit for declaration was also filed by the petitioner that the demand of Rs. 24,85,999/- raised vide letter No. 747 dated 23.01.2021 was illegal and unlawful. The said Civil Suit bearing No. 68 of 2021 was dismissed by the Special Court. Consequently, the present writ petition has been filed impugning the above demand.

5. Written statement on behalf of respondents No.1 to 5 through Sh. Jagdeep Singh Garcha, Sr. Xen, Focal Point Division, PSPCL, Ludhiana has been filed wherein it was averred that as per resolution 37 of the Electricity Supply Code, 2014, the petitioner was issued a notice on 22.02.2021 to deposit a sum of Rs. 24,85,999/- for restoration of the electricity supply alongwith a penalty charge of Rs.1,99,600/-. Instead of depositing the above said amount, the writ petition has been filed. It was also pointed that the petitioner was found committing theft of energy at the premises in question on 22.02.2021 by drawing a cable directly from the Transformer and by passing the electricity meter. The Enforcement Officers noticed the theft at the spot and a memorandum of Inspection and seizure bearing ECR No. 49/319 dated 22.02.2021 was accordingly prepared. The petitioner was entitled to seek restoration of the electricity supply on deposit of the demand conveyed under Section 135 1-A of the Electricity Act, 2003. He, however, failed to do so.

6. It was, however, not disputed that the petitioner had submitted an application for seeking extension of load from 19.96 KW

to 98.42 KWA and that on 06.10.2020, service connection charge of Rs. 1,97,500/- and security of Rs. 65,080/- had been conveyed for the extension of load. While the security charges were deposited by the petitioner on 06.10.2020, however, the service connection charges were not deposited. Hence, the supply could not be restored.

7. Counsel for the petitioner contends that he is ready and willing to deposit the outstanding service connection charges alongwith interest. He further contends that there was no theft of energy as the transformer in question had been installed by the official of the respondent-department themselves and supply had also been connected by the officials of the PSPCL. The petitioner was always reeling under the impression that necessary approvals have been granted. Hence, the malicious intent of committing theft was entirely missing.

8. He, however, fairly concedes that the above said issue is to be decided by the competent Special Court since assessment of civil liability is required to be undertaken by the Special Court in terms of Section 154 (5) of the Electricity Act, 2003. It is contended that since the respondents have communicated a demand for restoring the electricity supply, the petitioner would immediately deposit a sum of Rs. 10 lacs within a period of two weeks and shall also furnish Bank Guarantee to the satisfaction of the respondents for the balance amount and that the respondents may be directed to restore the electricity supply to the petitioner on such deposit alongwith the applicable service connection charges and any other statutory dues as may be applicable and subject to final outcome of the proceedings before the Special Court in relation to the proceedings arising out of the FIR No.

214 dated 24.02.2021 and without prejudice the rights of the respective parties.

9. Counsel for the respondent does not have any serious objection to the aforesaid offer contends that the interest of PSPCL may be protected.

10. Accordingly, the present petition is disposed of with liberty to the petitioner to deposit the delayed service connection charges alongwith interest alongwith any other such additional statutory charges as may have been approved. Additionally, the Sr. Xen, Focal Point Division, PSPCL, Ludhiana shall convey the applicable statutory charges outstanding as also the assessed amount required to be deposited by the petitioner, within a period of two weeks from today. On receipt of the aforesaid communication, the petitioner may, if so advised, deposit the entire statutory charges as claimed and in relation to the assessed demand under Section 135-1A in relation to case FIR No. 214 dated 24.02.2021, the petitioner shall deposit a sum of Rs. 10 lacs with the respondents and shall also furnish Bank Guarantee for the remaining amount. In the event of the petitioner fulfilling the above said requirements, the respondents shall thereafter release the electricity supply to the unit of the petitioner, without prejudice to the rights of the respective parties and subject to the final outcome of the proceeding before the Special Court. It is further directed that the irrevocable Bank Guarantee shall be kept alive by the petitioner. In the event of failure of the petitioner to ensure the needful, the protection shall cease to exist.

The present writ petition is accordingly disposed of.

All the pending miscellaneous application(s), if any, are
also disposed of.

(VINOD S. BHARDWAJ)
JUDGE

AUGUST 16, 2023

Vishal sharma

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