

Neutral Citation No. 2024:PHHC:008149

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

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CWP-4648-2022 (O&M)
Date of decision:- 18.01.2024

Kawar Singh

... Petitioner

Vs.

State of Haryana and others

...Respondents

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

Present: Mr. Jagmohan S. Ghumman, Advocate for the petitioner.

Mr. Pankaj Mulwani, DAG, Haryana
for respondents no.1 and 3.

Mr. R.S. Longia, Advocate for respondent No.2.

VINOD S. BHARDWAJ, J. (Oral)

The present petition is for seeking directions to respondents to take action on the representation dated 20.12.2021 (Annexure P-2) for releasing an electricity connection to the petitioner for agricultural purposes and upon considering his application as per its seniority list and without calling upon petitioner to file a fresh application.

2. Counsel for the petitioner contends that the petitioner had submitted an application with the respondent-Distribution Licencee on 16.01.2020 for grant of an electricity connection. The said application was forwarded to the Hydrologist Cell and connection was not released. Since no decision was taken thereupon, a representation was

submitted by the petitioner again on 20.12.2021. The above said application was marked by respondent No.3 to Hydrologist Ground Water Cell, Gurugram to take appropriate action. The concerned Hydrologist, vide its letter No. 43 dated 10.01.2020 issued a letter to the Superintendent Engineer of the respondent-Distribution Licencee to consider the application and for release of connection for tubewell. It is thus held that there would be an in principal approval by the Ground Water Cell Department. The above said application was further marked to the SDO, Badshahpur to take appropriate steps. Petitioner thereafter deposited application fee for issuance of a new connection bearing application No.G22-120-250 dated 16.01.2020. Despite deposit of requisite money, the electricity connection was not released to the petitioner. (The dates are so mentioned in the Writ Petition but do not co-relate to the sequence). A Writ Petition bearing No.14577 of 2021 was hence filed before this Court which was disposed of vide order dated 18.08.2021, on the statement of counsel appearing on behalf of the respondents that the application submitted by the petitioner shall be looked into and necessary action shall be taken thereupon. Thereafter, vide order dated 27.08.2021, the respondents communicated the decision that the earlier application was cancelled because there were no instructions issued by the Distribution Licencee regarding release of tubewell connection in the said notified area. It was thereafter that the sales circular No. 36/2021 dated 03.09.2021 has been issued and that the petitioner may apply afresh, as per the said circular, on the online portal of DHBVN so that

the file may be processed.

3. Counsel contends that he is pressing this petition only to the extent of treating the earlier application dated 16.01.2020 and to grant him seniority with effect from the said date for consideration of his application for grant of electricity connection.

4. Counsel for the respondent-Distribution Licencee has on the other hand contended that the earlier application dated 16.01.2020 had been submitted by the petitioner during a ban having been imposed on receiving of such application for release of a tubewell connection within the notified dark zone area. Since no applications were being received during the said period, in relation to release of agricultural connection in the dark zone area, there was no occasion of assigning any seniority. Consequently, the petitioner cannot claim any seniority to be reckoned with effect from the date of submission of the application. As applications were not received at that point of time, there was no occasion of preparing any seniority list. Hence, the abovesaid prayer cannot be accepted. The petitioner is required to submit his application online and in accordance with the Sales Circular No.36/2021 dated 03.09.2021. The application, if any, submitted by the petitioner in compliance of abovesaid sales circular shall be considered as per law.

5. Even though the said reply was filed on 06.09.2022, however, no rejoinder/replication to the same was filed.

6. I have heard learned counsel appearing on behalf of the respective parties and have gone through the documents and pleading

on record.

7. It has remained undisputed that there was no circular/instruction issued by the respondent-Distribution Licencee at the relevant point of time with regard to release of tubewell connection on 16.01.2020. It is further not the case of the petitioner that Sales Circular No.36/2021 dated 03.09.2021 does not stipulates maintenance of the seniority or recognize the rights of the applicant(s) who had submitted applications earlier. Once the petitioner is submitting himself for consideration of his claim in terms of the abovesaid Sales Circular No.36/2021 dated 03.09.2021, unless the factum of seniority as per the earlier application is ordered to be provided and protected thereunder, such seniority cannot be given to the petitioner. Undisputedly, no application under Sales Circular No.36/2021 dated 03.09.2021 has been submitted by the petitioner so far. Submission of any representation to the Deputy Commissioner or any other authority cannot *ipso facto* be held as submission of an application in accordance with the sales circular to the competent authority as notified for release of electricity connection under the sales circular. The submission of an application to any person other than the authorities recognized under the Electricity Act, 2003 cannot be deemed as submission of an application as per the procedure prescribed in law.

8. Seniority being a matter governed by the instructions/guidelines/orders issued by the authorities as per law, no such benefit can be extended to the petitioner when such

benefit/seniority is not provided for under the Sales Circular No.36/2021 dated 03.09.2021. Since no applications were being received, there was no seniority at the time when the application was initially submitted, hence, there is no occasion for giving such benefit to the petitioner at this juncture. The petitioner would at best be entitled to seek a set off of the amount deposited by him at the time of his earlier application dated 16.01.2020 to be adjusted against the subsequent demand raised by the respondents-authorities if the petitioner seeks release of tubewell connection under Sales Circular No.36/2021 dated 03.09.2021. The prayer for directing the respondents to grant seniority as claimed in the seniority, hence cannot be issued since the petitioner has failed to show that a right for the above claim accrued in his favour. Petitioner cannot thus be given a march over others' whose's application had not been received by the respondents, on account of the ban. It would amount to giving discriminatory premium to the petitioner instead of providing a level playing field. However, in the event the petitioner appears as per new circular, the application be considered as per law, failing which his amount lying with respondent be **returned**.

9. Petition is disposed of.

18.01.2024
pooja saini

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No