

2024:PHHC:094634



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

222

**CWP-8116-2021
Date of Decision: 25.07.2024**

JOGA SINGH

... Petitioner

VERSUS

**PUNJAB STATE POWER CORPORATION LIMITED
AND OTHERS**

... Respondents

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

Present: Mr. Shashi Kumar Rattan, Advocate
for the petitioner.

Mr. Lavanya Paul, Advocate
for the respondents.

VINOD S. BHARDWAJ, J. (ORAL)

The present petition has been filed for seeking setting aside of the impugned reply dated 26.02.2021 (Annexure P-5) sent by the Assistant Executive Engineer, PSPCL refusing the issuance of tubewell connection to the petitioner on the ground that there is a ban on issuance of fresh demand notice for tubewell connection in view of the policy/guidelines dated 13.04.2018. Challenge has also been raised to the said policy/guidelines on the ground of the same being arbitrary. A further prayer has also been made for directing the respondents to release the tubewell connection already sanctioned under the Chairman's discretionary quota on priority for irrigation of petitioner's agricultural land situated in the Kandi Area.

**CWP-8116-2021****-2-**

Learned counsel for the petitioner contends that the petitioner had applied for a tubewell connection which was sanctioned under the "Chairman's discretionary quota on priority" and respondent No.2- Addl. Superintending Engineer/Sales-I, PSPCL, Patiala sent memo No.29532/CMD Quota 2016/ Mukerian-3/sales-1 dated 26.12.2016 directing respondent No.3 i.e. Deputy Chief Engineer/ Distribution, PSPCL, Hoshiarpur conveying that the matter has been considered and it had been decided to release one tubewell connection in favour of the petitioner out of discretionary quota of CMD. On receipt of the said letter dated 26.12.2016, the petitioner deposited a sum of Rs.22,000/- vide Book No.D-65516, Receipt No.086 dated 03.01.2017 for release/restoration of the tubewell connection for agricultural purposes for his land measuring 5 acres. The tubewell connection was, however, not released whereupon a representation dated 09.09.2017 was sent. The counsel for the petitioner claims that the requisite infrastructure for installation of the tubewell connection has also been established by the petitioner, yet no action was taken by the respondents whereupon a legal notice was sent by the petitioner to the respondents on 06.01.2021 calling upon them to release the tubewell connection. A response dated 26.02.2021 to the said legal notice was sent by the respondents conveying that as per the policy dated 13.04.2018, there was a ban on issuance of fresh connections. He submits that after the receipt of letter dated 26.02.2021, the petitioner procured the policy guidelines bearing memo dated 13.04.2018 issued by the respondents as per which the cut-off date for release of tubewell connection for Kandi Area priority (10 BHP and above

**CWP-8116-2021****-3-**

submersible pumps) is fixed as 01.11.2016, which was arbitrary and illegal on the ground that such a cut-off date could not have been introduced retrospectively vide letter dated 13.04.2018. Hence the present petition.

Aggrieved of the communication sent by the respondents and by placing reliance on the memo dated 13.04.2018, the petitioner has approached this Court.

Learned counsel for the petitioner refers to the averments contained in preliminary submissions of the reply filed by the respondents. The same are extracted as under:

“3. That the present petition deserves to be dismissed since the same is premature and the petitioner has falsely contended that the connection stands sanctioned. It is humbly submitted that the Petitioner submitted the A &A Form alongwith security 3.01.2017 and has applied for a 7.54KW (10BHP) connection. A&A No. 24719 was allotted to the Petitioner, his name was entered in the service register and name figures at serial no. 7 in the Chairman Discretionary Quota in the sub-division.

The Petitioner has incorrectly contended that all formalities have been completed whereas there has been no submission and sanction of the estimate and load; no issuance of demand notice; no submission and approval of the test report. A.P category of connections are to be released only on the basis of seniority in the order of registration of A&A form, as contemplated in Regulation 5.3 of the Electricity Code. The Chairman Discretionary Quota is also subject to certain conditions, as provided in Instruction 13.4(a) of the Electricity Manual, including that the sanction letter is valid for a period of 3 months for registration of A&A Form.

**CWP-8116-2021****-4-**

The petitioner has sought a writ of certiorari for quashing reply dated 26.02.2021 (Annexure P-5 of the petition) by incorrectly contending that there is a refusal on part of the answering respondents to release a tubewell connection in his favour. A perusal of the reply dated 26.02.2021 clearly reveals that whilst the petitioner has been informed regarding the policy decision to ban issuance of fresh demand notices, in view of pendency of 38 large number of demand notices already issued, but at the same time, the Petitioner has been duly assured that once appropriate orders are received from the higher authority i.e. Respondent No. 2, the application already made by him would be processed for further release of tubewell connection. Therefore, it is humbly prayed that the present petition deserves to be dismissed since there is no refusal by the answering respondents, as incorrectly contended by the Petitioner.”

Referring to the above, it is argued that as the respondents have themselves submitted that there is no refusal on the part of the respondents-Department to issue the tubewell connection and that once appropriate orders are received from their higher Authority, the application already moved by the petitioner shall be processed for issuance of tubewell connection, learned counsel for the petitioner submits that he would be satisfied at this stage, in case the respondents are directed to look into the grievance espoused by the petitioner and to take a decision on his application in a time bound manner, more so, when the same has remained pending with the respondents since 2018.

Learned counsel for the respondents, however, contends that the present writ petition is liable to be dismissed as no order of refusal qua release of tubewell connection has been passed by the respondents. She is, however,



CWP-8116-2021

-5-

not in a position to controvert the averments contained in paragraph No.3 of the preliminary submissions as extracted above.

Having heard learned counsel for the respective parties and having gone through the documents available on record as also the request made by the counsel for the petitioner and without commenting on any other issues and merits involved in the present petition, I deem it appropriate to dispose of the present writ petition as not pressed at this stage with a direction to the respondents to take an appropriate decision on the pending application of the petitioner in accordance with law and as expeditiously as possible and preferably within a period of two months of the receipt of certified copy of this order.

Disposed of accordingly.

All other misc. application(s), if any, also stand(s) disposed of accordingly.

JULY 25, 2024
rajender

(VINOD S. BHARDWAJ)
JUDGE

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