

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

222

CWP-24609-2019 (O&M)
Date of Decision: 22.02.2024

LAL SINGH

... Petitioner

VERSUS

PUNJAB STATE POWER CORPORATION LTD.
AND OTHERS

... Respondents

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

Present: Mr. Inderjit Sharma, Advocate
for the petitioner.

Mr. Shubham Thakur, Advocate for
Mr. Alok Mittal, Advocate for respondents
No.1 and 2.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present petition is to the letter dated 09.02.2018 (Annexure P-7) passed by the respondents, whereby proceedings regarding misuse of connection released for sprinkler system had been initiated against the petitioner.

Learned counsel for the petitioner contends that the State of Punjab issued a policy for institution of Sprinkler System Scheme on 10.11.2006. The petitioner alongwith his son was owner of land comprised in khatoni No.235, 236, 237 and applied for the grant of electricity connection under the abovesaid policy/scheme of 10.11.2006. The jamabandi and land details were submitted alongwith the application form showing the ownership of the petitioner as well as his son. An affidavit was also furnished by his son in relation to possession and transfer of land in favour of the petitioner. The family settlement was also

entered into the revenue record vide report No.245 dated 15.02.2018. The claim of the petitioner was accepted on the strength of documents submitted and a sum of Rs.100/- vide receipt No.268 dated 10.11.2016 was deposited. Subsequently, the petitioner also deposited an amount of Rs.88,378/- on 17.05.2016 towards statutory charges for installation of electricity connection and an amount of Rs.1,700/- towards grant of drip sprinkler connection was also deposited on 22.04.2016. The requisite property statements were also got prepared by the Department of Soil and Water Conservation, after verifying the same from the concerned Patwari and the Mini Sprinkler Irrigation project was also approved. The contractor installed the connection on the land of petitioner on 25.06.2016. Since then, the petitioner has been using the sprinkler system for cultivating vegetables on his land and has already spent a sum of Rs.5,00,000/- in total for installation of the said system.

However, on account of an anonymous complaint having been received by the respondents, disconnection of the abovesaid connection was ordered. Against the said order, the petitioner filed a civil suit, wherein an injunction was initially granted, but the same was vacated later on. The petitioner thereafter filed the instant petition and also withdrew the said civil suit to approach this Court.

It is argued that the requirement, as per the project, was a minimum land holding of one hectare by the beneficiary and since the combined land holding of the petitioner with his son (who had already executed an affidavit transferring the land in favour of the petitioner and mutation had already been executed) combined to more than one hectare, hence, the petitioner was eligible for seeking release of the said electricity connection. The

decision of the respondents to disconnect the electricity connection, notwithstanding the revenue record which was already produced before them, and that the affidavit of the son of the petitioner submitted at the time of seeking electricity connection, which documents were duly verified by the concerned officials at various levels before release of connection, is a ministerial act with no application of mind.

Counsel for the respondents-PSPCL on the other hand contends that the petitioner had secured the release of electricity connection in violation of the terms and conditions of the scheme. The minimum land holding stipulated in the scheme was not under the ownership and in possession of the petitioner. The decision of the respondents to disconnect was thus correct since the petitioner was the owner only to the extent of 13 kanals of land as against a minimum requirement of 20 kanals of land to be eligible for grant of electricity connection under the said scheme. He further submits that initially the petitioner had preferred a civil suit and came before this Court without withdrawing the same. It is further contended that the petitioner has availed the benefit of the abovesaid scheme without fulfilling the minimum land requirement as prescribed thereunder.

A replication was also filed by the petitioner controverting the said facts.

I have heard the learned counsel for the respective parties and have gone through the documents and record available on case file with their able assistance.

It is not in dispute that the application in question was submitted by the petitioner alongwith the supporting affidavit of his son as well as the

documents showing him as co-sharer with his son. The said claim of the petitioner was duly verified and the claim of the petitioner was found to be falling within the parameters of Commercial Circular No.59 dated 10.11.2006. Further, the scheme document, which specifies the requirement for release of electricity connection and as relied upon by the respondent-PSPCL for defending their action, reads thus:

"(i) Release of tubewell connections on priority shall be allowed to the prospective consumers in the State on Drip/Micro Sprinkler Irrigation System installed on a minimum area of 2 (two) hectares for fruit crops, and 1(one) hectare for vegetable and non-horticulture crops."

The said condition is being relied by the respondents to contend that the persons seeking the release of an electricity connection must be an owner of a minimum area of two hectares for fruit crop and one hectare for vegetables and non-horticulture crops.

A perusal of the aforesaid clause shows that for the purpose of release of tubewell connection, the consumer should have a minimum area of two hectares. The said clause does not talk of the land to be under the ownership of the consumer. The incorporation of a words "minimum area" for release of connection cannot be interpreted to be under the ownership of the consumer. Thus, if a prospective consumer is seeking benefit of the drip/micro sprinkler irrigation system for the abovesaid area requirements, he/she becomes entitled to be considered for release for tubewell connection under the said Scheme. The language of the Clause is rather suggestive of cultivating possession.

In the facts of the present case, the son of the petitioner had sworn an affidavit and has also transferred the land in favour of the petitioner, which has further vested the ownership and title over the said land in favour of the petitioner. A Mutation has also been sanctioned and thus the petitioner fulfills the requisite condition for seeking release of the electricity connection under the abovesaid Scheme.

Hence, considering it from either perspective, the petitioner cannot be said to have taken any undue benefit under the said Scheme for seeking a priority electricity connection. The impugned action of the respondents is thus based upon misreading of the statutory scheme document and impugning the requirement of minimum area as the minimum land holding of the applicant/consumer in his capacity as an owner. The same having not been specifically incorporated, such condition cannot be read into the Circular. What is to be seen is whether the benefit was sought for the requisite area of land or not, by the petitioner, which is in his established lawful cultivating possession.

The action of the respondents is thus not based upon sound interpretation, reasoning and consideration of the policy notified by them. There is apparently no error or defect in the documents submitted by the petitioner for release of electricity connection. The present writ petition thus deserves to be allowed. The impugned order dated 09.02.2018 (Annexure P-7) passed by the respondents is hereby set aside. The respondents are directed to restore the disconnected electricity connection of the petitioner within a period of 30 days of the receipt of certified copy of this order.

Petition stands allowed accordingly.

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

FEBRUARY 22, 2024
rajender

(VINOD S. BHARDWAJ)
JUDGE

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