
(2013) 08 P&H CK 0056

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 18698 of 2011

Amanpreet Singh

APPELLANT

Vs

Chairman Punjab State Power Corporation Ltd.

RESPONDENT

Date of Decision : 30-08-2013

Acts Referred:

Citation : (2013) 08 P&H CK 0056

Hon'ble Judges : Rameshwar Singh Malik, J

Bench : Single Bench

Advocate : N.P.S. Mann, for the Appellant; Nisha Luthra, Advocate for Mr. Amit Aggarwal, Advocate for Respondents No. 1 to 3 and Mr. Anil Sharma, Additional A.G., Punjab, for the Respondent

Judgement

Rameshwar Singh Malik, J.—(Oral)-Feeling aggrieved against the alleged inaction on the part of respondent authorities, the petitioner has approached this Court, by way of instant writ petition under Article 226/227 of the Constitution of India, seeking a writ in the nature of Mandamus. Notice of motion was issued and pursuant thereto, reply by way of affidavit on behalf of respondents No. 1 to 3 was filed. Separate reply was filed on behalf of respondent No. 4. Another short affidavit was filed on behalf of respondents No. 1 to 3.

2. In compliance of the order dated 4.7.2013 passed by this Court, Sh. Mohinderpreet Singh, Additional Superintending Engineer, Punjab State Power Corporation Limited, Zirakpur, District Mohali, is present in the Court. He has filed the affidavit dated 30.8.2013 in the Court today, which has been placed on record and copy thereof, has been supplied to the learned counsel for the petitioner.

3. Learned counsel for respondents No. 1 to 3 on instructions from Sh. Mohinderpreet Singh, submits that official formalities are almost complete and the electric connection for tubewell of the petitioner shall be released within a period of two weeks from today. So far as inordinate long delay in releasing the electric connection in favour of the petitioner is concerned, learned counsel for

respondents No. 1 to 3 submits that although the application was submitted for the instant electric connection way back in the year 1986, but official formalities came to be completed on behalf of the petitioner in the year 2009. Thereafter for one or the other justified reasons, the tubewell connection could not be released in favour of the petitioner. There was no mala fide on the part of the respondent authorities. She further submits that in view of the developments having taken place, the present writ petition does not survive and may be disposed of, as such.

4. Faced with the above said situation, learned counsel for the petitioner also fairly states that in view of affidavit filed, coupled with the statement made by learned counsel for respondents No. 1 to 3, let the present petition be disposed of as having been rendered infructuous, but a reasonable amount of costs be imposed on respondents No. 1 to 3 for wholly unwarranted harassment caused to the petitioner.

5. Having heard the learned counsel for the parties, after careful perusal of the record of the case and giving thoughtful consideration to the submissions made on behalf of both the parties, this Court is of the considered opinion that the present writ petition deserves to be allowed with costs. To say so, reasons, are more than one, which are being recorded hereinafter.

6. The claim of the petitioner had never been in dispute. The electric connection for the tubewell, which is now likely to be released in favour of the petitioner, in view of the undertaking given by Sh. Mohinderpreet Singh, within a period of two weeks from today was applied way back in the year 1986. This fact is also not in dispute. Further, during the course of hearing, no particular default or mistake has been pointed out on behalf of the petitioner, which might have been the ground for this "inordinate delay in releasing the electric connection.

7. Sections 42 and 43 of the Electricity Act, 2003 cast duty on respondents No. 1 to 3, being a "distribution licensee to provide supply of electricity to the consumer, within a period of one month after receipt of the application requiring supply of electricity. Sections 42 and 43 of the Electricity Act, read as under:-

Section 42. Duties of distribution licensees and open access.-

(1) It shall be the duty of a distribution licensee to develop and maintain an efficient, co-ordinated and economical distribution system in his area of supply and to supply electricity in accordance with the provisions contained in this Act.

(2) The State Commission shall introduce open access in such phases and subject to such conditions, (including the cross subsidies, and other operational constraints) as may be specified within one year of the appointed date by it and in specifying the extent of open access in successive phases and in determining the charges for wheeling, it shall have due regard to all relevant factors including such cross subsidies, and other operational constraints:

Provided that [such open access shall be allowed on payment of a surcharge] in addition to the charges for wheeling as may be determined by the State

Commission:

Provided further that such surcharge shall be utilised to meet the requirements of current level of cross subsidy within the area of supply of the distribution licensee:

Provided also that such surcharge and cross subsidies shall be progressively reduced in the manner as may be specified by the State Commission:

Provided also that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use;

2[Provided also that the State Commission shall, not later than five years from the date of commencement of the Electricity (Amendment) Act, 2003, by regulations, provide such open access to all consumers who require a supply of electricity where the maximum power to be made available at any time exceeds one megawatt.]

(3) Where any person, whose premises are situated within the area of supply of a distribution licensee, (not being a local authority engaged in the business of distribution of electricity before the appointed date) requires a supply of electricity from a generating company or any licensee other than such distribution licensee, such person may, by notice, require the distribution licensee for wheeling such electricity in accordance with regulations made by the State Commission and the duties of the distribution licensee with respect to such supply shall be of a common carrier providing non-discriminatory open access.

(4) Where the State Commission permits a consumer or class of consumers to receive supply of electricity from a person other than the distribution licensee of his area of supply, such consumer shall be liable to pay an additional surcharge on the charges of wheeling, as may be specified by the State Commission, to meet the fixed cost of such distribution licensee arising out of his obligation to supply.

(5) Every distribution licensee shall, within six months from the appointed date or date of grant of licence, whichever is earlier establish a forum for redressal of grievances of the consumers in accordance with the guidelines as may be specified by the State Commission.

(6) Any consumer, who is aggrieved by non-redressal of his grievances under sub-section (5), may make a representation for the redressal of his grievance to an authority to be known as Ombudsman to be appointed or designated by the State Commission.

(7) The Ombudsman shall settle the grievance of the consumer within such time and in such manner as may be specified by the State Commission.

(8) The provisions of sub-sections (5), (6) and (7) shall be without prejudice to right which the consumer may have apart from the rights conferred upon him by

those sub-sections.

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. I [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.

8. A combined reading of the above said provisions of the law, which are mandatory in nature, would show the casual and indifferent approach adopted on behalf of respondents No. 1 to 3 towards genuine and reasonable claim of the petitioner. Having said that, this Court feels no hesitation to conclude that respondents No. 1 to 3 (7A N"CA have miserably failed to perform their statutory duty hereby causes avoidable harassment to the petitioner, without there being any fault on his part.

9. Further, learned counsel for respondents No. 1 to 3 failed to explain the inordinate delay in releasing the electric connection in favour of the petitioner. The only submission made on behalf of the respondents in this regard that because of cumbersome official procedure, this inordinate delay has occurred in releasing the electric connection, is wholly misplaced and cannot be accepted In this view of the matter, it is unhesitatingly held that the respondent authorities

have rendered themselves liable for compensating the petitioner.

10. No other argument was raised.

11. Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that serious inaction on the part of respondents No. 1 to 3, has been found to be wholly arbitrary.

12. Consequently, the present writ petition is allowed. Respondents No. 1 to 3 are directed to compensate the petitioner by Respondents No. 1 to 3 are directed to compensate the petitioner by paying an amount Rs. 50,000/- as costs. Respondents No. 1 to 3 shall pay the costs to the petitioner within a period of two months from today, failing which he shall be entitled to recover the same along with interest @ 9% per annum from the date of receipt of test report dated 6.11.2009 till the date of actual payment. Resultantly, with the observations made, and directions issued here-in-above, the instant writ petition stands allowed with costs.