
(2003) 08 P&H CK 0002

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 14268 of 2001

Gram Panchayat, Bhagrana

APPELLANT

Vs

Punjab State Electricity Board

RESPONDENT

Date of Decision : 01-08-2003

Acts Referred:

Citation : (2003) 4 RCR(Civil) 217

Hon'ble Judges : V.K.Bali, J and Jasbir Singh, J

Advocate : Mr. J.S. Toor, Advocate. Mr. Sukhbir Singh, Advocate., Advocates for appearing Parties

Judgement

V.K. Bali, J.—Gram Panchayat, Bhagrana, by joining some of the residents of the village, has filed present petition under Article 226 of the

Constitution of India seeking writ in the nature of mandamus directing the respondents to release 24 hours (3 Phase) power supply in accordance

with the Commercial Circular No. 18/97 issued vide memo No. 16940/17690/SSM416 dated May 30, 1997 (Annexure P1).

2. Brief facts, as projected in the writ, on which the relief aforesaid, is sought to rest, reveal that the Punjab State Electricity Board framed a

scheme on May 30, 1997 for giving 24 hours power supply to the villages, irrespective of the power supply given to the agricultural section. For

the purpose aforesaid, Circular No. 18/97 dated May 30, 1997, Annexure P1, was issued, which contained a scheme with the revised

guidelines/operative instructions for giving urban pattern supply facilities to the villagers vide RE Circular No. 5/96 dated December 13, 1996. The

petitioner Gram Panchayat deposited a sum of Rs. 20,000/ on June 23, 1997 in the office of Sub Divisional Officer, Badli third respondent herein

for 24 hours (3 Phase) power supply. Another Gram Panchayat, namely, Gram

Panchayat, Khera, applied for 24 hours power supply later than petitioner Gram Panchayat on June 27, 1997. The village Khera, which applied later than petitioner No. 1, was given 24 hours power supply two years earlier. It is the case of petitioners that they have been deliberately discriminated out of ulterior motive and mala fide intentions. Before coming to this Court by way of present petition, petitioners made representation dated June 7, 2001 to the Executive Engineer, Punjab State Electricity Board, Sirhind, second respondent herein, which was of no avail. When second representation made by them on June 8, 2001 also proved abortive, present petition was filed on September 12, 2001.

3. When the matter came up for motion hearing before the Hon'ble Bench, then seized of the matter, on September 14, 2001, following order was

passed :

CMs are allowed as prayed.

Contentends that the principle of "first come first served" was not followed inasmuch as persons who applied for the electric connection much after the petitioner have been given the same.

Notice of motion for 19.2.2002.

4. Pursuant to notice issued by this Court, respondents have filed reply and contested the cause of petitioners. It appears from records of the case

that when the matter came up for hearing before the Hon'ble Bench, then seized of the matter, on May 8, 2002, arguments were heard at some

length and a competent officer of the respondent Board was asked to file an affidavit, wherein particulars of the applications received after the

petitioner's application for supply of electricity on 3 Phase line, were ordered to be given. Order dated May 8, 2002 reads thus :

After hearing learned counsel for the parties for some time, we direct Shri Sukhbir Singh to ensure that an affidavit of the competent officer is filed

giving the particulars of applications received after the petitioner's application for supply of electricity on 3 Phase line.

The required affidavit be filed within four weeks.

Further affidavit on behalf of the petitioners, if any, be filed in next two weeks.

The case be listed for arguments on 25th July, 2002".

Additional affidavit has also been filed.

5. In the written statement that has been filed on behalf of the respondents, it has, inter alia, been pleaded that originally the scheme was framed

vide Circular No. 5/96 and commercial circular No. 30/96 dated June 23, 1996. Thereafter, the instructions were revised vide commercial circular

No. 18/97 in supersession of the previous instructions issued vide commercial circular No. 30/96 dated 23.6.1996. As per the instructions issued

vide commercial circular No. 18/97, 24 hours power supply was categorised into three types consumers, falling within the 'phirni' of the village,

500 meters of 'Phirni' and beyond 500 meters of 'Phirni' of the village. It is then pleaded that the work for giving 24 hours supply to the

petitioners is in progress. While referring to the case of Gram Panchayat, Khera, which had applied later in point of time than the petitioner Gram

Panchayat and was given the desired connection, it was pleaded that the said village had given the unskilled labour free of costs. Those villages,

which were to give the unskilled labour, were to be given priority whereas no such offer till date was given by the petitioner Gram Panchayat. It is

further pleaded that if the petitioner may agree to provide unskilled labour free of costs even now, then 24 hours supply would be given on priority.

While dealing with categorywise seniority, it is pleaded that the Sale Manual Instructions No. 24, which provides for the same, is relating to only

consumers of the feeder. These instructions have been in vogue from the very beginning whereas 24 hours power supply on urban pattern scheme

was framed in the year 1996. So, the instructions were not applicable in the present case as Gram Panchayats are being supplied electricity.

However, in the present case, Gram Panchayat had applied for 24 hours power supply on urban pattern. The Chief Engineer/RE and SIL, PSEB,

Patiala, vide Memo No. 280/84/DSI3011 dated February 5, 2001, superseded all earlier instructions and had decided to provide Urban Pattern

Single Phase supply to the villages by running additional fourth wire on 11 KV lines. This policy was further amended/guidelines were issued in

continuation of earlier instructions vide memo dated August 14, 2001. As per new instructions, the estimates regarding the supply of 24 hours

power supply on urban pattern to the petitioner Gram Panchayat had been sanctioned by the competent authority and work started. The electric

poles are being installed. The estimate of 24 hours single Phase power supply by running fourth wire on urban pattern, which comes to Rs. 6.40

lacs tentatively, has been sanctioned. If the 3Phase, 3wires, 24 hours power supply on urban pattern is given to the petitioner village, then the estimate would come to about more than 15 lacs tentatively but the Gram Panchayat had deposited only Rs. 20,000/. The supply was given as per new instructions of the Board. Copies of instructions dated February 5, 2001 and August 14, 2001 have been annexed with the written statement as Annexures R1 and R2.

6. The pleadings made in the written statement, as reflected above, would clearly suggest two fold defences. Whereas, one defence is that the petitioner Gram Panchayat had not supplied unskilled labour free of costs, Gram Panchayats, which might have applied even later than the petitioner Gram Panchayat, had supplied such labour. The second defence projected in the written statement is that in due course of time, the policy has changed.

7. In the additional affidavit, that has been filed on behalf of the respondents, a chart, showing the name of the village and mode of supply, date of application, estimate No., sanctioning of estimate by the competent authority along with memo No. and date and present status, has been given. A reading of chart aforesaid would show that whereas, petitioner Gram Panchayat applied for connection on June 23, 1997 and the work with regard to connecting this village in the scheme in question is still in progress, Gram Panchayat, Khera had applied later in point of time on June 27, 1997 and has since been connected with the concerned electric connection.

8. The petitioners have filed replication, wherein they have specifically averred that they had offered to provide unskilled labour but the work in their village has not still started. Even thereafter, second respondent or any other officer of the Board never approached the Gram Panchayat to provide electric supply in the village.

9. From the pleadings made in the writ petition and written statement filed on behalf of the respondents, the controversy with regard to supply of unskilled labour appears to be of no significance at this stage, inasmuch as the respondents, in para No. 11 of the reply filed by them have stated that if the petitioner village agrees to provide unskilled labour free of costs even now, then 24 hours supply would be given on priority and, as mentioned above, it is the positive case of petitioners that they were always

prepared to provide unskilled labour free of costs. The only questions which, thus, survives is as to whether pending application of petitioner Gram Panchayat for electric supply of a particular category, in view of instructions or policy in vogue at the time when application was made, should not be allowed only because, for no fault of the petitioners, there is a time lag and in between policy or instructions might change, as it appears, from the pleadings made in the written statement, has happened in the present case.

10. Division Bench of this Court in Agni Castings Pvt. Ltd. v. Punjab State Electricity Board & Ors., CWP No. 16015 of 1993 (Annexure P3), in somewhat similar circumstances, directed the electricity board to do the needful, even though policy of granting electricity connection was subsequently amended. The facts of the case aforesaid would reveal that petitioner Agni Castings Private Limited, submitted an application for the grant of additional load for starting Induction Furnace at Mandi Gobindgarh. This application was registered in the service register at Sr. No. 14.

The requisite fee was deposited. As per the scheme applicable, electric connections were to be released on the principle of 'first come first

served'. M/s Gian Castings Private Ltd., fifth respondent in the said case, also applied for electric connection and its application was registered at

Sr. No. 224 on June 17, 1992. Petitioner received a letter from the electricity board that since no additional load was available, it should not incur

any expenditure on the construction of building and they had also purchased machinery. On October 2, 1992, the connection to fifth respondent

was released. The prayer in the said petition was opposed on the ground that there were 82 applicants claiming electricity connections and all such

applications were processed and electric connections were released to such persons, who had made additional expenditure and had placed orders

for the purchase of machinery. The connection to fifth respondent was released as it had fulfilled all the conditions. Petitioner, it was stated, had not

purchased the machinery and, therefore, connection was not released. Meanwhile, policy of granting electric connection had been amended. On

the facts, as mentioned above, Division Bench observed that the only question for consideration was as to whether the application of the petitioner

has to be processed under the old policy and if it also fulfils the requisite

conditions, to release the desired electric connection. The Division Bench then held that the petitioner was to be equally treated like respondent No. 5 or other persons, to whom the additional electricity load had been granted. The Board was, thus, directed to consider the reply to respondent and any other material which the petitioner might produce before the Electricity Board and if it was to be found that the petitioner had also placed orders for machinery and had fulfilled all other conditions, connection for additional load was to be released to it under the policy. In the present case, it is proved that the petitioner Gram Panchayat had applied earlier in point of time, even though it was only few days, than Gram Panchayat, Khera. If the petitioner Gram Panchayat was fulfilling all the conditions, it had to be treated alike with Gram Panchayat, Khera. There is nothing on records to show that the petitioner was ever asked to supply free unskilled labour and, as mentioned above, it is the positive case of petitioners that they had offered to supply unskilled labour free of costs to the respondent Board. As mentioned above, in para 11 of the written statement, it has been mentioned by the respondent Board that if the petitioner Gram Panchayat was to agree even now for providing unskilled labour free of costs, then 24 hours electric supply would be given to it on priority.

11. In the circumstances, as fully detailed above, we are of the view that petitioners could not be discriminated in the matter of supply of 24 hours (3 Phase) electric connection as per their demand made vide application dated June 23, 1997. The respondent Board is, thus, directed to release 24 hours (3 Phase) power supply to the petitioners as expeditiously as possible and preferably within a period of three months from today, provided the petitioner Gram Panchayat may supply to the respondent Board unskilled labour free of costs.

This writ petition is allowed in the manner, indicated above. Parties are, however, left to bear their own costs.