
(2018) 10 P&H CK 0236
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No.5838 Of 2018

Paljinder Singh

APPELLANT

Vs

Punjab State Power Corporation Limited And Ors

RESPONDENT

Date of Decision : 04-10-2018

Acts Referred:

Citation : (2018) 10 P&H CK 0236

Hon'ble Judges : Rakesh Kumar Jain , J

Bench : Single Bench

Advocate : Kawaljyot Singh, Y. P. Khullar, Zorawar Singh Chauhan

Final Decision : Disposed off

Judgement

The petitioner is allegedly the owner in possession of House No.B-1/418-419, situated in Village Mohalla Chaudrian, Tehsil Phillaur, District Jalandhar.

The petitioner is already having a domestic electricity connection. However, his grievance is that one Sukhjinder Kaur wd/o Gurmail Singh has also

been issued a domestic electricity connection bearing No.PC 221324 in his premises. The petitioner made a complaint to the respondents to cancel the

electricity connection issued in favour of Sukhjinder Kaur. Since the complaint of the petitioner has not been considered, therefore, he has approached

this Court for the issuance of a writ in the nature of mandamus.

Learned counsel for the petitioner has submitted that Clause 6.5 of the Supply Code, 2014 (effective from 1.1.2015), notified by the Punjab State

Electricity Regulatory Commission on 5.11.2014, deals with one connection in one premises. The said provision is reproduced as under: -

â??6.5 One Connection in One Premises

6.5.1 A consumer shall be treated as a distinct entity and deemed to be an

independent establishment, if

- a) it is a separate unit in duly partitioned premises owned or taken on lease/rent;
- b) it is registered as a separate entity/firm under the relevant law;
- c) it holds a separate Sales Tax/VAT number and is independently assessed to Income Tax.

6.5.2 The applicant shall give an undertaking that no connection exists in the premises for which a connection is applied. However domestic supply

consumer may get more than one domestic supply connection in the same premises where family members/occupants living in a house have separate

cooking arrangements. In case a tenant requires a separate connection in the same premises, he shall furnish an undertaking from the landlord in the

form of an affidavit duly attested by Notary Public that the landlord shall clear all the liabilities in case the tenant leaves the premises without paying

the distribution licensee's dues.

6.5.3 If a portion of residential /industrial premises is regularly used for any commercial activity permitted under law , the consumer shall be required

to obtain a separate connection under NRS category for the portion put to commercial use. In such an event, two connections, one under Schedule

DS/Industrial and the other under Schedule NRS shall be permitted.

He has also prayed that in case the disputed electricity connection is not cancelled then direction may be issued for clubbing the same in terms of

Clause 35 of the Electricity Supply Instructions Manual (updated till 30.6.2017) [for short "the Supply Manual"] which says that "some

consumers take more than one connection in the same premises to avoid conversion of supply to higher voltage and application of different Schedule

of Tariff. Release of a new connection or more than one connection in the same premises shall be regulated as per Reg. 6.5 and for clubbing of

industrial loads as per Reg. 8.12 of the Supply Code -2014.

The petitioner has pressed Clause 35.7 of the Supply Manual in support of his submission, which read as under: -

"35.7 Whenever an existing consumer on his own, applies for clubbing of two or more connections running at the same premises clubbing of all

such connections may be allowed by the officers competent to sanction the total load after clubbing. The clubbing of such connections may be allowed

at the cost of PSPCL only if on the clubbing of different connections, the voltage level for the total clubbed load remains the same. Where after

clubbing of loads the consumer is required to get supply at the next higher voltage, he shall bear the expenditure required for laying higher voltage lines

and setting up his own sub-station etc. These provisions shall be applicable for all categories of connections.â??

After notice, the respondents have filed their respective replies. Respondent No.4 has averred in her reply that she is the aunt of the petitioner as

petitioner is the son of Santokh Singh son of Bikkar Singh and she is the widow of Gurmail Singh son of Bikkar Singh. She is allegedly residing in the

said house from the last 40 years and the petitioner has allegedly procured a forged and fabricated Will of her father-in-law on the basis of which he

has got the house in question mutated in his name in the record of the Municipal Council. Earlier there was only one connection in the house in

question but the petitioner, after allegedly procuring the forged and fabricated Will of her father-in-law, claimed ownership and illegally disconnected

the electricity of the portion which is in her occupation.

In the reply filed by respondents No. 1 to 3, it is averred that the respondents can release more than one domestic electricity connection in one

premises provided the family members/occupants having a separate cooking arrangements in the house. In this regard, the respondents have referred

to Clause 6.5.2 of the Supply Code and submitted that since respondent No.4, who happened to be the Chachi of the petitioner, has produced separate

ration card on the same address to prove the fact that she has separate cooking arrangement, therefore, a separate electricity connection has been

provided. It is also submitted that the domestic electricity connection of respondent No.4 cannot be clubbed as the clubbing is regulated as per the

regulation 35 of the Supply Manual.

I have heard learned counsel for the parties and perused the record.

Both the petitioners and the respondents have referred to Clause 6.5 of the Supply Code in support of their contention. The case of the petitioner is

that until and unless the unit is separated, duly partitioned or taken on lease/rent, it cannot be treated as a distinct entity and deemed to be an

independent establishment for the purpose of a separate electricity connection. The property in dispute is exclusively owned by him in which

respondent No.4 is residing as a licensee i.e neither the owner nor the tenant/lessee and cannot apply for a separate electricity connection without his consent.

On the other hand, respondent No.4 is claiming her right in terms of Clause 6.5.2 of the Supply Code contending that the "domestic supply

consumer" can get one more domestic supply connection in the same premises where the family members/occupants living in the house have

separate cooking arrangements and since respondent No.4 has prima facie proved with the aid of the ration card etc. that she is occupying the house

in question and has separate cooking arrangements, therefore, she has been rightly issued the separate electricity connection by respondent No. 1 to 3.

As a matter of fact, neither the petitioner nor the respondents have appended the complete Supply Code. Clause 6.5.1 of the Supply Code starts with

the word "consumer". Whereas the word used in Clause 6.5.2 of the Supply Code is "domestic supply consumer". The definition of

"consumer" has nowhere been brought on record by the parties to the lis. However, according to Clause 6.5.1 of the Supply Code

"consumer" shall be treated as a distinct entity and has to be treated as an independent establishment if it is a separate unit in duly partitioned

premises owned or taken on lease/rent. Whereas, as per Clause 6.5.2 of the Supply Code, the applicant has to give an undertaking that he has no

other connection in the same premises for which the connection is applied but thereafter the provision says that "however domestic supply

consumer may get more than one domestic supply connection in the same premises where family members/occupants living in a house have separate

cooking arrangements".

The question is as to whether the "domestic supply consumer" would be the one who is the "consumer" because as per Clause 6.5.2 of the

Supply Code the person/applicant has to give undertaking that he has no other connection in the same premises?

Thus in order to sort out the dispute between the parties, the present petition is hereby disposed of with a direction to respondent No.1 to reconsider

the application of the petitioner in accordance with law, decide the same after hearing both the parties within a period of three months and in this

process shall issue notice to both the parties of the date and time for their

appearance, who may appear themselves in-person or through advocates, for the purpose of seeking redressal of their grievance.