
(2000) 11 P&H CK 0063
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 4799 of 2000

Parminder Singh Sandhu

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 02-11-2000

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Electricity (Supply) Act, 1948 — Section 49, 79

Citation : (2001) 2 CivCC 74 : (2001) 3 RCR(Civil) 121 : (2001) 3 RCR(Civil) 149

Hon'ble Judges : V.K. Jhanji, J

Bench : Single Bench

Advocate : Mr. M.L. Sarin and Ms. Jaishree Thakur, for the Appellant; Mr. S.C. Sibal, Addl. A.G., Punjab, Mr. S.K. Bhanot, D.A.G., Punjab, Mr. H.S. Mattewal, Senior Advocate, Mr. Sanjeev Sharma and Mr. P.S. Thiara, for the Respondent

Judgement

V.K. Jhanji, J.—In this writ petition under Articles 226/227 of the Constitution of India, prayer made is for quashing the letter dated 29.10.1999 (Annexure P.3) whereby respondent No. 3 namely, the Deputy Commissioner, Patiala (for short the D.C. Patiala) has directed respondent No. 4 namely, Punjab State Electricity Board, Patiala (for short "the Board") not to issue electric connection to the petitioner.

2. The case of the petitioner is that land in possession of the petitioner belonged to Dera Bir Kheri Gujran, Tehsil and District Patiala (for short the pera) which is being managed by its Mahant. The said Dera is a religious and charitable institution. According to the petitioner, Mahant of the Dera, after obtaining permission from the appropriate authority, has given land on lease and Lease Deed dated 2.6.1998 for a period of 99 years has been got registered in favour of the petitioner. Further, according to the petitioner, he applied for electricity connection but his application has been rejected by the Board because of letter dated 29.10.1999 of the D.C. Patiala, whereby the Board has been directed not to issue any electricity connection to the residents of the colony being

constructed in Dera. Petitioner has averred that the act of the D.C. Patiala directing the Board not to issue electricity connection and the action of the Board in denying electricity connection to the petitioner is clearly arbitrary. According to the petitioner, the D.C. Patiala has no authority to regulate the supply of electricity.

3. Upon notice of the writ petition, respondent No. 4 as also respondents No. 1 to 3 have filed written statements. In the written statement filed by Shri S.S. Bassi, Additional Superintending Engineer Operations, West Division on behalf, of the Board, it has been conceded that for the grant of electricity connection, the Board is only to see that the formalities in accordance with Regulation No. 3.8 of the Sales Regulation framed u/s 49 and sub-section 79 of the Electricity Supply Act, 1948 (for short the Act) are complete. It has also been conceded that the electricity connection is not being given to the petitioner and 7 other applicants because of letter dated 29.10.1999 of the D.C. Patiala in which it was stated that land of the Dera is being wrongly used for setting up colony and as such no electricity connection should be released. The Board has also stated that the load required by the petitioner was not assessed because the application filed by the petitioner was not proper. In the written statement filed by Shri Jasbir Singh Bir IAS, D.C. Patiala on behalf of respondents No. 1 to 3, it has been stated that lease by Mahant in favour of the petitioner for 99 years, only for a sum of Rs. 10,000/- is not justified. According to him, land of the Dera abutting the city is agricultural but Mahant of the Dera is alienating it for the purposes of converting the same into a residential colony. It is averred that the land is not owned by Mahant but by Dera. The Mahant is only entitled to use the produce of the land for his personal necessity and for looking after Faqirs who visit the Dera. The D.C. Patiala has further alleged that there is no langar run by the Mahant for the Sadhus and the travellers and the land leased out is worth crores of rupees and the amount realised has been invested in the construction of 7 palatial houses. It is stated that since the Mahant has leased out the land of the Dera in the shape of plots, a case has been got registered by Punjab Urban Development Authority vide FIR No. 31 dated 21.11.1999 in Police Station, Civil Lines, Patiala under the Punjab Apartment and Property Regulation Act, 1995.

4. I have gone through the record and heard the learned Counsel for the parties at length.

5. Section 49 of the Act empowers the Board to supply electricity to any person upon such terms and conditions as the Board may think fit for such supply, frame uniform tariffs. It is also competent to frame regulations and issue instructions from time to time for regulating supply of electricity and for fixing the tariffs and terms and conditions for supply of electricity. There is no provision in the Act conferring power upon the D.C. Patiala to issue directions to the Board not to supply electricity to any person. In absence of any provision in this regard, the powers of the Board conferred under the Act for supplying electricity to any person cannot be curtailed by any administrative direction issued by the D.C. The

Board by not considering the application of the petitioner for supply of electricity connection, has failed to exercise jurisdiction vested in it. Likewise, the letter of D.C. Patiala directing the Board not to supply electricity to the petitioner being without jurisdiction is not sustainable in law.

6. The only objection raised by learned Counsel for the State of Punjab to the grant of electricity to the petitioner is that if electricity connection is ordered to be given, the same would be taken to have approved illegal construction and illegal conversion of the use of land. It is contended that under the garb of order dated January 18, 1994 passed in C. W.P. No. 5388 of 1991 titled *Mahant Sant Parkash v. State of Punjab and others* whereby respondents have been directed not to interfere with the possession, management and control of the Dera and the property attached thereto, land which is agricultural is being converted for carving out a residential colony without obtaining any permission from the authority concerned. Mr. M.L. Sarin, Senior Advocate, counsel for the petitioner has fairly conceded that there is no order operating in favour of the petitioner whereby respondents No. 1 to 3 have been restrained from proceeding against the petitioner for raising of unauthorized and illegal construction and also change of user of the land.

7. Presently, there is no material on record to show that the use of the land has been changed from agricultural to residential and construction is being raised without the permission of the competent authority or getting the plan sanctioned from the authorities concerned. In absence of any material, it would not be proper for me to opine on this subject. However, in order to allay any apprehension of respondents No. 1 to 3 in this regard, it is made clear that in case respondent No. 5 or the petitioner or any other person acting on their behalf has changed the use of land and has raised construction without getting the plan sanctioned or obtaining prior permission of the competent authority, respondents No. 1 to 3 or the authority competent to take action, shall be at liberty to proceed against them in accordance with law.

8. In the light of the above, this writ petition is allowed and letter dated 29-10-1999 of the D.C. Patiala is quashed. Respondent No. 4 is directed to re-process the application of the petitioner for the grant of electricity connection in accordance with the provisions of the Act, the regulation and the instructions, if any, issued by the Board from time to time in this regard. In case the application filed by the petitioner is not complete or is defective, petitioner shall be informed so as to enable him to file fresh application. Upon receipt of complete application, the Board shall pass appropriate order on the same within a period of three months thereof. No costs.

9. Petition allowed.