

PUNJAB STATE ELECTRICITY REGULATORY COMMISSION
SITE NO. 3, BLOCK B, SECTOR 18-A MADHYA MARG, CHANDIGARH

Petition No. 05 of 2021
& IA No. 03 of 2021
Date of Hearing: 05.02.2021
Date of Order: 11.02.2021

Petition under Regulation 45, 46 and 47 of the Supply Code 2014 and Regulation 6 of the Punjab State Electricity Regulatory Commission (Single Point Supply to Co-operative Group Housing Societies/Employers) Regulations and other relevant rules and regulations as approved by Hon'ble Commission including 68, 69, 70, 71 and 72 and other relevant provisions of Chapter XIII of the Conduct of Business Regulations 2005 as amended up to date and the provisions of the Electricity Act, 2003 for Setting aside the communication bearing Memo No. 4282 dated 06.11.2020 issued by the Respondent-PSPCL, whereby, the Respondent has wrongly sought to deposit a sum of Rs. 89,59,130/- from the Petitioner on account of single point rebate and consequential communication dated 04.01.2021, whereby, the above said demand has been increased by PSPCL to the tune of Rs.92,98,757/-.

And

In the matter of: M/s Globus Projects Pvt. Ltd having its offices at Plot No. 1, (Bestech Business Tower, Sector-66) Phase-9, Industrial Area, Mohali-160062, through its authorized Representative Sh. Syed Shamshad Akhtar.

V/s

1. Punjab State Power Corporation Ltd, having its office at the Mall, Patiala, through its Chairman-Cum-Managing Director.
2. Chief Engineer (Commercial), The Mall, Patiala.
3. Superintending Engineer/DS, PSPCL, 220 KV Grid, Industrial Area, Phase-7, SAS Nagar, Mohali.
4. Additional Superintending Engineer (DS), PSPCL, Plot No. A-2, Industrial Area Phase-1, District SAS Nagar, Mohali.
5. Assistant Executive Engineer (Commercial), Sub-Division, PSPCL, Mohali, Plot No. A-2, Industrial Area Phase-1, SAS Nagar.

Present: Ms. Kusumjit Sidhu, Chairperson
Ms. Anjuli Chandra, Member
Sh. Paramjeet Singh, Member

M/s Globus Sh. Aditya Grover
Projects Sh. Syed Shamshad Akhtar.
Pvt. Ltd: Sh. Parveen Kumar, DGM Facilities

PSPCL: Sh. Deepak Gupta, SE/TR-2
Sh. Mohit Sood, SE/Mohali
Sh. Gurpreet Singh Sandhu, ASE
Sh. Mukesh Kumar, ASE/TR-5
Sh. Paramjit Singh, AEE/Commercial

ORDER

The petition was taken up for hearing on admission. During hearing, the learned Counsel for the petitioner submitted that the petitioner company is engaged in the business of development of real estate projects and has developed a Shopping Mall cum Multiplex namely Bestech Square Mall for which single point supply connection has been granted by PSPCL. The petitioner has signed a franchisee agreement with PSPCL under the 7th proviso to Section 14 of the Electricity Act, 2003. The learned counsel further submitted that PSPCL has issued notice for the recovery of single point supply rebate already granted since the date of release of connection, for alleged non-compliance of certain conditions of the franchisee agreement. It was argued that as per the franchisee agreement, in the event of default on the part of franchisee, PSPCL has the power to terminate the franchisee agreement after following the laid down procedure but there is no provision for recovery of single point supply rebate from the back date. It was brought to notice of the Commission that the recovery has been made from the date of connection which is prior to the signing of the franchisee agreement with PSPCL.

On the issue of jurisdiction, while referring to clause (1) of Regulation 20 of PSERC (Conduct of Business) Regulations, 2005, it was contended that the arbitration of disputes, which under the Act are within the scope and jurisdiction of the Commission, may be commenced by the Commission on an application made by any of the parties to the dispute. Claiming to be a deemed licensee under Regulation 44 of the PSERC (Conduct of Business) Regulations, 2005, the learned counsel argued that as per clause 13 of Appendix 3 (a) of the PSERC (Conduct of Business) Regulations, 2005, the Commission is entitled to adjudicate the dispute or nominate an arbitrator to settle the dispute between the licensees or between distribution licensee and a generating company as per clause (f) of sub-section (1) of section 86 of the Act.

The officers representing PSPCL submitted that various notices have been issued to the petitioner indicating non-compliance of the various provisions of the franchisee agreement and directing the franchisee to comply with the conditions of

the agreement. Due to the failure of the petitioner to comply with the conditions of the franchisee agreement, recovery notice has been issued. The PSPCL officers admitted that the recovery of single point supply rebate has been made from the date of connection which is prior to the date of signing of franchisee agreement.

It is an admitted fact that the petitioner is a franchisee under Regulation 6.6.2 of the Supply Code, 2014 read with 7th proviso to section 14 of the Act and not a deemed licensee under section 14 of the Act as claimed by the petitioner. The petitioner is neither a licensee nor a generating company and thus the provisions of clause (f) of sub-section (1) of section 86 of the Act are not applicable in this case. The parties have entered into a franchisee agreement and as such are bound by the conditions of this franchisee agreement. Clause 19 of the franchisee agreement reads as under:

“19. In case of any dispute between PSPCL and Distribution Franchisee, matter shall first attempted to be resolved by means of mutual negotiation and amicable resolution and upon failure of such amicable resolution within a period of 30 days, all such disputes and differences shall be adjudicated by means of Arbitration by a sole arbitrator to be mutually agreed to by the parties. The Arbitration proceedings shall be governed by the Arbitration and Conciliation Act, 1996. The place of arbitration shall be Chandigarh/Patiala and the language of arbitration shall be English.”

Since there is specific provision in the franchisee agreement for the settlement of disputes between the distribution licensee and the franchisee therefore the Commission directs the parties to proceed as per clause 19 of the franchisee agreement and report compliance within 45 days of the date of issue of this order.

Further, the learned counsel for the petitioner pleaded for restraining the respondents against any coercive action on account of impugned demand raised by the PSPCL. After hearing both the parties, the Commission, as an interim measure, invokes the inherent powers vested in it by Regulation 69(1) of the PSERC (Conduct of Business) Regulations, 2005 which reads as under:

“69(1) Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary for meeting the ends of justice or to prevent the abuse of the process of the Commission.”

Therefore, to meet the ends of justice, the Commission directs the PSPCL not to take any punitive action against the Petitioner on account of impugned demand raised by PSPCL, for a period of 45 days granted to the parties to submit compliance of this order.

The petition, along with the IA, is accordingly disposed off.

Sd/-
(Paramjeet Singh)
Member

Sd/-
(Anjuli Chandra)
Member

Sd/-
(Kusumjit Sidhu)
Chairperson

Chandigarh
Dated: 11.02.2021

