

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

Petition No. 65 of 2024
Date of Hearing: 02.04.2025
Date of Order: 09.04.2025

Petition under conduct of Business Regulation 2005 of PSERC under Electricity Act 2003 seeking compliance of regulation issue by PSERC and Electricity Act, 2003 and suitable action against respondents under section 142 and 146 of Electricity Act, 2003 for not complying with the regulations. Award of Arbitration case dated 16.01.2023.

And

In the matter of: M/s N.K. Sharma Enterprises Pvt. Ltd. Charanjit Enclave,
(Lohgarh) Ambala-Chandigarh- Highway Zirakpur

....Petitioner

Versus

Punjab State Power Corporation Limited, Patiala through
its Managing Director & ASE-op Spl. Division Zirakpur

....Respondent

Commission: Sh. Viswajeet Khanna, Chairperson
Sh. Paramjeet Singh, Member

Petitioner: Sh. K.D Parti
Sh. P.C. Aggarwal, Electrical Engg.

ORDER

1. The petition was taken up for hearing on admission. The representative appearing for the petitioner submitted that M/s N.K. Sharma Enterprises Pvt. Ltd. is a consumer of PSPCL having domestic supply category connection with a sanctioned load of 3536 kW and had entered into a Distribution Franchise Agreement (DFA) with PSPCL on 28.02.2017. PSPCL issued a memo dated 20.08.2019 asking the petitioner to deposit a sum of Rs. 656854/- on account of wrongly availing the single point rebate from January 2019 to August 2019. The petitioner paid the amount and challenged it before the CGRF. The CGRF, vide order dated 25.10.2019, decided that the franchisee rebate be given to the claimant if the compliance of all the terms and conditions of the DFA is made by the claimant. The order passed by

the CGRF was not implemented and the complainant filed petition no. 38 of 2020 under section 142 of the Electricity Act, 2003 before the Commission. The petition was disposed of by the Commission vide order dated 03.12.2020 at the stage of admission itself observing that the dispute is about whether the petitioners have fulfilled the terms and conditions of the DFA or not. There is no issue of non-compliance of the orders of CGRF which warrant proceedings under section 142 of the Electricity Act, 2003. The petitioner again approached PSPCL for grant of benefit of rebate. When PSPCL did not respond and the Arbitrator could not be appointed by the parties mutually to resolve the dispute, the petitioner approached the Hon'ble High Court which appointed the Arbitrator. The Arbitrator passed an order/award dated 16.01.2023 as under:-

"Keeping in view, petition, reply, oral arguments, perusal of record produced by both parties, after hearing both parties and observations/conclusions made as above, I decide that;

Franchisee rebate be given to the franchisee as admissible under clause 15 of DFA from the date of signing of franchisee agreement by both the parties and excess rebate if any, be adjusted / recovered in the final calculations as per decision of CGRF order dated 25.10.2019 subject to following conditions;

- 1. The difference of tariff of common services charged less by the petitioner be paid back to PSPCL as per observation made in para 10(e).*
- 2. All billing data as per terms & conditions of DFA be provided in soft form every month by the petitioner for reconciliation of energy billing date monthly and for smooth calculation of rebate as per observations made in para 10(b).*
- 3. The claimant must pass 1% rebate as per clause 21.2.7 of supply Code 2014 and the amendments as per observations made above para 10(c).*

The claimant will provide already existing billing data within 7 days to the respondent. The respondent will calculate the franchisee rebate from the date of signing of the franchisees agreement and put-up calculations within 15 days. The petitioner will reconcile the calculations within 7 days of the receipt of calculations from the respondent. Payment shall be made by the respondent within 7 working days of reconciled data put up by the claimant.

If both parties do not adhere to above decision, then action be taken as per clause 18, clause 20 and clause 21 of Distribution Franchisee Agreement."

The petitioner has submitted that PSPCL has not finalized the claim and has not acted as per the clause no. 18, 20 and 21 of the DFA as per the orders passed by the Hon'ble Arbitrator. The order / award passed by the arbitrator has not been implemented and refund has not been given to the petitioner. The petitioner has prayed that the order of Sole Arbitrator be got implemented and suitable action be taken against PSPCL refunding the amount due to the petitioner along with interest.

2. The Commission has examined the averments made in the petition and the submissions made by the representative appearing for the petitioner. The grievance raised in the petition is that the award dated 16.01.2023 was passed by the sole arbitrator allowing franchise rebate but the same has not been implemented by PSPCL. The award dated 16.01.2023 was passed by the Sole Arbitrator under Arbitration and Conciliation Act, 1996. Section 36 (1) of Arbitration and Conciliation Act, 1996 provides as under:-

“36. Enforcement- (1) Where the time for making an application to set aside the arbitral award under section 34 has expired, then, subject to the provisions of sub-section (2) such award shall be enforced in accordance with the provisions of the Code of Civil Procedure, 1908 (5 of 1908), in the same manner as if it were a decree of the court.”

As per section 86(1) (f) of the electricity Act, 2003, the State Commission is conferred with the power to adjudicate disputes between the licensees and the generating companies. The dispute raised in the present petition is not between the licensee and the generating company. The dispute and the relief claimed by the petitioner does not fall within the functions of the Commission and the jurisdiction of the Commission is not attracted to entertain the petition. Thus, the petition is not maintainable before the Commission and is dismissed with the above observations.

Sd/-

(Paramjeet Singh)
Member

Sd/-

(Viswajeet Khanna)
Chairperson

Chandigarh
Dated: **09.04.2025**