

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

Petition No. 60 of 2022
Date of Order: 10.01.2023

Petition under Section 142 of the Electricity Act, 2003 and other relevant Rules and Regulations as approved by the Commission including 68,69,70, 71 & 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 directing the Respondents to withdraw the letter dated 29.09.2022 regarding disconnection of Electricity Connection and for taking action under section 142 against PSPCL for violating the directions of the Commission.

AND

In the matter of: M/s Saraswati Stone Crusher (CA: 3007488937). M/s Simran Stone Crusher (CA: 3007489006), and M/s Super Screening Plant (CA: 3007489049) located in Mubarikpur, Distt. Mohali have authorized one of them i.e. M/s Saraswati Stone Crusher through its sole proprietor Brij Mohan Aggarwal.

.....Petitioner

Vs.

1. Punjab State Power Corporation Ltd. Through its Chairman cum Managing Director, The Mall, Patiala
2. Assistant Executive Engineer/DS Sub Division, PSPCL, Mubarikpur, District SAS Nagar, Mohali.

.....Respondents

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

ORDER

The petitioners have filed this petition under Section 142 of the Electricity Act, 2003 read with Regulations 68, 69, 70, 71 & 72 of the Conduct of Business Regulations, 2005 and the provisions of the Electricity Act, 2003 for directing the Respondents to withdraw the letters dated 29.09.2022 regarding disconnection of electricity connection of the petitioners and for taking action under section 142 against PSPCL for violating the directions of the Commission.

1. The Petitioners submitted that they had received letters dated 29.09.2022 from AEE/op., Mubarkpur Sub-Division, PSPCL wherein

letter received by CMD, PSPCL from Director-cum-Special Secretary, Mining and Geology, Punjab had been referred to intimating that they had not filed returns with the Department of Mines and Geology, Punjab as per the Crushers Policy 2015. The aforementioned letters dated 29.09.2022 further informed the petitioners that the electricity connection would be disconnected after 7 days if they did not comply with the above mentioned policy in the stipulated time. The Petitioners further submitted that they had complied with the requirements of the Crushers Policy 2015 regarding submission of monthly returns. However, the aforesaid letters issued by PSPCL were against the provisions of the Electricity Act, 2003 as well as the provisions of the Supply Code and the same were liable to be set aside. The petitioners further requested for staying the operation of the aforesaid letters issued by PSPCL pending the adjudication of the petition.

2. The petition was taken up for admission on 12.10.2022. The representatives appearing for PSPCL submitted that they had received instructions from the Director-cum-Special Secretary, Mining and Geology, Punjab regarding disconnection and the action of PSPCL was as per the instructions in this regard. On a query of the Commission as to what provisions of the Electricity Act 2003 were violated by the petitioners and whether the petitioners were in violation of any regulations or the Supply Code, the officers representing PSPCL could not provide any satisfactory reply and sought time to file a proper reply. After hearing the matter, the Commission vide order dated 21.10.2022 stayed the operation of memo no. 1948, 1959 and 1960 dated 29.09.2022 issued by PSPCL and restrained PSPCL from disconnecting the connection of the petitioners or taking any other coercive action till the next date of hearing. PSPCL was directed to file its reply to the petition within two weeks with a copy to the petitioners (through hard copy and soft copy). The petitioners were directed to file rejoinder thereto, if any, within one week thereafter (through hard copy and soft copy). The petition was fixed for hearing on 07.12.2022. However PSPCL failed to file reply and vide order dated 09.12.2022,

PSPCL was granted last opportunity to file reply within 7 days. The interim stay was extended till next date of hearing.

3. PSPCL filed reply to the petition vide CE/ARR & TR letter dated 20.12.2022 and submitted that :

- (i) a letter vide memo no. 5186-97/6M/356180 has been issued by the office of Director-cum- Special Secretary Mining and Geology Punjab, Chandigarh, addressed to Chairman-cum-Managing Director, Punjab State Power Corporation Ltd, Patiala stating that there are 104 stone crushers/screening plants, which have not filed previous monthly returns with the department of Mines & Geology as per the Crusher Policy, 2015 and requested PSPCL to cancel/withdraw the electricity connections of these crusher units. In compliance to the above said letter, concerned sub divisions have issued notices bearing No. 1948 to M/s Sarswati Stone Crusher, notice bearing No. 1959 to M/s Simran Stone Crushers and notice bearing No. 1960 to M/s Super Screening dated 29.09.2022 for not filing returns as per the Crusher Policy, 2015. The office has issued the notices as per ESIM clause 7.2.3 to the petitioners for filing their monthly return of department of Mining and Geology as per the Crusher Policy 2015 within 7 days, but electricity connection of the petitioners have not been disconnected.
- (ii) Again a letter bearing no- 2788 dated 14.10.2022 has been received from the Mining Department in the office of Chairman-cum- Managing Director, PSPCL, Patiala stating that now they are sending a revised list of 32 defaulters who have not submitted their returns with the department. In the present list, the names of the petitioners have not been mentioned and due to this the department has already withdrawn the notices so issued to the petitioners vide office letter no. 2256 dated 09.12.2022 and letter no.1110 dated 09.12.2022. Hence the present petition is liable to be withdrawn against the respondents.
- (iii) The office has not violated any of the provisions as alleged and the office has only complied with the directions of the Mining Department which is under the Punjab Government.

4. During hearing on 21.12.2022, the Commission pointed out that letter no. 1110 dated 09.12.2022, is an intimation by Assistant Engineer, Sub Division Handasera, to the Sr. Executive Engineer, Lalru wherein it has been mentioned that the letters have been withdrawn till the Orders of the Commission. The officers appearing for PSPCL failed to show any provision of the Act or regulations under which the notices were issued to the petitioners. After hearing the parties, the Commission reserved the order.

5. **Commission's Findings and Order**

From the submissions made by the parties, it is evident that CMD/ PSPCL received a communication from the Department of Mining, Govt. of Punjab stating that some crusher units have not complied with some of the provisions of the Crusher Policy, 2015 and requested PSPCL to cancel/withdraw the electricity connections of these crusher units. The letter was simply marked downwards without any specific directions to the field officers to issue disconnection notices to these consumers. However, Assistant Executive Officer/Operation Sub-Division, PSPCL, Mubarikpur issued notices vide memo no. 1948, 1959 and 1960 dated 29.09.2022 to the petitioners wherein it has been mentioned that *"as per the instructions from Chief office (Op) South, Patiala your electricity connection will be disconnected after 7 days if you do not comply with the above mentioned Policy in stipulated time."*

There is no provision in the Electricity Act, 2003 or the Regulations framed under the Act to disconnect the electricity supply to any premises due to non-compliance of any instruction/policy of another Govt. Department. The power to disconnect the supply has been granted to the distribution licensee under specific conditions as specifically provided in the Electricity Act, 2003 read with Supply Code, 2014. The officers of PSPCL during hearing admitted that there is no provision in the Act or the Regulations to disconnect the supply of the petitioners due to non-compliance of policy of another department such as Crusher Policy, 2015. The provisions of ESIM, which is an internal document of the distribution licensee, cannot override the provisions of the Act and the Regulations. It has been mentioned in clause 1

of ESIM that in the event of inconsistency in the ESIM instructions and the provisions of Supply Code, 2014 and the Act, the latter shall prevail.

From the above, it is clear that AEE/OP S/Divn. Mubarkpur misused his power by issuing an illegal disconnection notice to the petitioners causing undue harassment to the petitioners. We direct PSPCL to take necessary disciplinary action against the delinquent officers. PSPCL is further directed to issue instructions to all the field officers within 15 days of the issue of this order to mention the relevant provision of the Electricity Act, 2003 and/or Regulations framed under the Act while issuing any disconnection notice to a consumer failing which such disconnection notice shall be treated as null and void *ab-initio* and the concerned officer shall be liable to be proceeded against under section 142 of the Electricity Act, 2003.

The petition is disposed of accordingly.

Sd/-
(Paramjeet Singh)
Member

Sd/-
(Viswajeet Khanna)
Chairperson

Chandigarh
Dated: 10.01.2023