

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

Review Petition No. 04 of 2021
In Pt No. 09 of 2017
Date of Order: 17.03.2022

Review Petition/Application under Section 94 (1) (f) of the Electricity Act, 2003 read with Regulation 64 (Chapter XIII) of PSERC (Conduct of Business) Regulations and other provisions for Reviewing the Order dated 12.07.2021 rendered by the Commission in Petition No. 09 of 2017.

In the matter of: M/s A.K. Concast Pvt. Ltd., Village Rai Majri, Tehsil Khamanu, Distt. Fatehgarh Sahib.

... Petitioner

Versus

Punjab State Power Corporation Ltd.

...Respondent

Present: Sh. Viswajeet Khanna, Chairperson
Ms. Anjuli Chandra, Member
Sh. Paramjeet Singh, Member

ORDER

M/s A.K. Concast Pvt. Ltd has filed the present Review Application/Petition for review of the Order dated 12.07.2021 passed by the Commission in petition No. 09 of 2017 and to direct PSPCL to comply with the Order dated 20.10.2014 passed by the Commission in petition No. 50 of 2014 and to pay the excess amount on account of security (works) to the petitioner alongwith applicable interest.

2. The Review petition was admitted vide Order dated 29.10.2021 further directing PSPCL to file its reply in the review petition alongwith response regarding actual expenditure incurred by PSPCL against security (works). The Review petitioner has submitted that PSPCL did not file any appeal

against the order dated 20.10.2014 passed by the Commission in Petition No. 50 of 2014 and as such the order dated 20.10.2014 is binding on PSPCL. PSPCL had filed an Appeal before the Hon'ble APTEL against the order dated 17.09.2014 passed by the Commission in Petition No. 45 of 2014, petition No. 65 of 2015 and petition No. 75 of 2015, wherein vide order dated 19.05.2020 the orders passed by this Commission were set aside by the Hon'ble APTEL. It has been further submitted that the Commission in this regard has filed review petitions before the APTEL seeking review of the order dated 19.05.2020, which is still pending adjudication. The petitioner deposited a sum of Rs. 37,80,140/- on account of security (Works) and after deducting the amount actually incurred, PSPCL is liable to refund the excess amount charged from the petitioner. The petitioner further submitted that the Commission has gravely erred while passing the Order dated 12.07.2021 and there are errors in the Order apparent on the record. The Order dated 20.10.2014 passed in petition No. 50 of 2014 is an order in Persona and not an Order in Rem. It is contended by the petitioner that the dispute with regard to excess security (Works) does not concern only monetary calculations but requires an interpretation of Regulations. The petitioner has further contented that PSPCL may be directed to comply with the respective regulations and to refund the amount of excess security (Works) alongwith applicable interest thereon. The Order dated 12.07.2021 passed by the Commission in petition No. 09 of 2017 deserves to be reviewed.

PSPCL filed its reply to the review petition and submitted that the petitioner deposited Rs. 34,05,010/- as initial security towards supply of electricity as per schedule of charges approved by the Commission. The

petitioner may approach the appropriate authority for adjudication of his monetary dispute as per Regulation 2.21 of the PSERC (Forum and Ombudsman) Regulations 2016 read with clause 4.2 of the Consumer Compliant Handling Process (CCHP). After hearing the parties on 25.01.2022, Order was reserved. The Review petitioner also filed written submissions dated 29.01.2022

Observations and Decision of the Commission

3. The petitioner filed Petition No.9 of 2017 under Section 142 of the Electricity Act 2003 for taking action against PSPCL for contravention of the Order of the Commission dated 20.10.2014 in Petition No.50 of 2014 for not paying interest on Initial Security. The petitioner also prayed for the refund of excess security (works) with interest and review of energy bill for the month of April 2016. The Commission vide Order dated 12.07.2017 adjourned Petition No.9 of 2017 sine die till the final order in Appeal filed by PSPCL before the Hon'ble APTEL.

The petitioner vide letter dated 22.02.2021 submitted that there are three grounds in petition no. 09 of 2017 and requested the Commission to hear on grounds (ii) & (iii) of the prayer in the petition i.e. refund of excess security (works) and revision of the energy bill for the month of April 2016, since the Appeal in APTEL related only to the 1st issue in the prayer. The matter was taken up and after hearing the parties, the Commission vide order dated 12.07.2021 disposed of the petition as under:-

“The prayer No. (ii) and (iii) of the relief sought in the petition pertain to the refund of excess security (works) deposited by the petitioner along with interest and revision of energy bill for April 2016. As per Regulation 2.21 of the PSERC (Forum and

Ombudsman) Regulations, 2016 read with clause 4.2 of the Consumer Complaint Handling Procedure (CCHP), the Dispute Settlement Committee and the Forum constituted under sub-section (5) of section 42 of the Electricity Act 2003, have the jurisdiction to settle all the monetary disputes arising due to wrong billing, application of wrong tariff or difference of service connection charges/Security (works), overhauling of account due to defective/inaccurate metering etc. Accordingly, the petitioner may approach the appropriate authority for adjudication of his monetary dispute with regard to prayer No. (ii) & (iii) of the petition”.

The petitioner has filed the present Review Petition submitting that there are errors apparent in Commission's Order dated 12.07.2021 and requested to review the said order. In the Review Petition, the petitioner raised the issue of payment of interest on initial security and refund of excess amount of Security (works).

The Commission has already passed the Order on prayer clause No. ii & iii of the petition vide Order dated 12.07.2021 after due consideration. Regulation 64 (1) of the PSERC (Conduct of Business) Regulations 2005 pertaining to review of the Orders stipulates as under.

“Any person aggrieved by a decision or order of the Commission, from which no appeal is preferred or allowed, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decision/order was passed by the Commission or on

account of some mistake or error apparent on the face of record, or for any other sufficient reason, may apply for review of such order within 60 days of the date of decision/ order of the Commission.”

Also, the counsel for the petitioner while addressing his arguments on the issue of Supply Code Regulations submitted that the Commission is vested with the jurisdiction to adjudicate the matter in terms of the Supply Code, 2007. The dispute with regard to excess security (Works) does not concern only the monetary calculations the petitioner is seeking that the respondent be directed to comply with the Regulations passed by the Commission and accordingly refund the excess security works alongwith applicable interest thereon. Hence, the counsels submits that this issue apparently falls under the domain of the Commission. However, it is pertinent to note that the petitioner has not made a prayer in this regard in his petition and this argument of the petitioner does not qualify the test stipulated under Regulation 64 of PSERC (Conduct of Business) Regulations 2005 for reviewing the Order dated 12.07.2021.

As recorded in the Commission's order dated 12.07.2021, the petitioner vide letter dated 22.02.2021 had requested the Commission to hear the petition no 9 of 2017 on grounds (ii) & (iii) as the issue no (i) is pending in the review petition before Hon'ble APTEL. However, the Review petitioner has neither brought out any new and important matter or evidence which could not be produced by him at the time when the order dated 12.07.2021 was passed by the Commission nor has pointed out any error apparent on the face of the record. The Commission has passed a well reasoned order after considering all the submissions and arguments of the parties and therefore the present review petition is without any merit and is accordingly dismissed.

Being a monetary dispute between a consumer and the distribution licensee, the petitioner may approach the Appropriate Forum constituted as per PSERC (Forum & Ombudsman) Regulations, 2016, as amended from time to time, read with section 42 of the Electricity Act 2003 for settlement of disputes.

The review petition is accordingly dismissed.

Sd/-
(Paramjeet Singh)
Member

Sd/-
(Anjuli Chandra)
Member

Sd/-
(Viswajeet Khanna)
Chairperson

Chandigarh
Dated: 17.03.2022

