

PUNJAB STATE ELECTRICITY REGULATORY COMMISSION

SITE NO. 3, BLOCK B, SECTOR 18-A MADHYA MARG, CHANDIGARH

**Review Petition No.09 of 2022
in Petition No. 46 of 2022
Date of Order: 17.02.2023**

Review Petition under Section 64 of the PSERC (Conduct of Business) Regulations, 2005, praying for review of the order dated 27.10.2022 passed by the Commission in Petition no. 46 of 2022 vide which the petition filed by the petitioner under Regulations 44,45,46 of PSERC (Electricity Supply Code and Related Matters), Regulations, 2014, read with Regulation 69 of the PSERC (Conduct of Business) Regulations, 2005, seeking interpretation/clarification regarding category, out of categories mentioned in explanation (b) of section 126 of the Act, under which unauthorized use of electricity as mentioned in second proviso to Regulation 36.1.3 of the PSERC (Electricity Supply Code and Related Matters) Regulations, 2014 falls because as per Annexure-8 attached with the PSERC (Electricity Supply Code and Related Matters) Regulations, 2014 the method to calculate the electricity charges in case of unauthorized use of electricity is different for each category, was dismissed.

And

In the matter of: Kamaljeet Kaur wife of Kirpal Singh, Adjacent Phase VIII, Focal Point, Village NichiMangli, Ludhiana (Electricity A/c No. 3003540471), through her authorized representative K.D. Parti.

....Petitioner

Versus

Punjab State Power Corporation Limited, through its Managing Director, the Mall Patiala.

...Respondent

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

Petitioner: Sh. Tajender Joshi, Advocate

ORDER

The review petition was taken up for hearing on admission on 08.02.2023 and after hearing the counsel for the review petitioner, the order was reserved. The review petition has been filed under Regulation 64 of the Punjab State Electricity Regulatory Commission (Conduct of Business) Regulations, 2005, praying for review of the order dated 27.10.2022 passed by the Commission in Petition No. 46 of 2022 on the grounds that the Commission has passed this order under the impression that the petitioner has challenged the assessment orders before the Commission. The Commission did not decide the questions raised by the petitioner in the petition and as such there is mistake and error apparent on the face of the record and as such the order dated 27.10.2022 is required to be reviewed and recalled by the Commission.

It has further been argued by the review petitioner that unauthorized use of electricity as mentioned in second proviso to Regulation 36.1.3 of the Punjab State Electricity Regulatory Commission (Electricity Supply Code and Related Matters) Regulations, 2014 is not the part of Section 126 of the Act. So it is necessary to give clarification by the Commission on this aspect as prayed in the original petition. The findings of the Commission in Order dated 27.10.2022 would show that there is mis-appreciation of the facts by the Commission and certain mistakes or errors apparent on the face of record.

Clause (1) of Regulation 64 of PSERC (Conduct of Business) Regulations, 2005 specifies as under:

“64. Review of the decisions, directions and orders:-

(1) 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.”

Regulation 64(1) specifies the grounds on which review can be sought by a person aggrieved by the decision or the Order of the Commission and the grounds are:

- (i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the knowledge of the person or could not be produced by him at the time when the decision or order was passed by the Commission or
- (ii) Mistake or error apparent on the face of record or
- (iii) For any other sufficient reason.

Thus the scope of an application for review is restricted and can be exercised only within the limits prescribed above. The grounds mentioned in regulation 64 (1) of Conduct of Business Regulations extracted above are akin to the powers of the Civil Court to review its order/decision under Section 114 CPC read with Order 47 rule 1 of the CPC,

In *Parsion Devi and Others vs. Sumitri Devi and others* [1987 (8) SCC 715], it was held by Hon'ble Supreme Court that

“An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on

the face of the record justifying the Court to exercise its power of review under Order 47, Rule 1 CPC. In exercise of the jurisdiction under Order 47, Rule 1 CPC it is not permissible for an erroneous decision to be “reheard and corrected”. There is a clear distinction between an erroneous decision and an error apparent on the face of the record. While the first can be corrected by the higher forum, the latter only can be corrected by exercise of the review jurisdiction. A review petition has a limited purpose and cannot be allowed to be “an appeal in disguise”.

The review petitioner has only prayed to re-hear the matter on the same grounds and on the same issues which were brought out in petition no 46 of 2022 and against which the Commission had already passed an order dated 27.10.2022. The assumption of the review petitioner that the order was passed by the Commission under impression that the petitioner has challenged the assessment order and as such is a mistake and error apparent on the face of record is without any basis and does not fulfil the conditions for review as laid down in the Regulations and the Hon’ble Supreme Court. The Appellate Authority constituted under section 127 of the Act is fully competent to dispose of the matter after hearing the parties. The present petition is an appeal in disguise of the review petition.

In view of the above, the instant Review Petition does not merit admission and is accordingly dismissed.

Sd/-
(Paramjeet Singh)
Member

Sd/-
(Viswajeet Khanna)
Chairperson

Chandigarh
Dated: 17.02.2023