

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

**Petition No. 14 of 2018
Date of Order: 13.09.2019**

In the matter of: Petition under section 142 of the Electricity Act, 2003 read with regulation 5 and 6 of the PSERC (Electricity Supply Code and Related Matters) Regulations, 2007, for taking necessary action against the respondents and its officials for violating the provisions of Supply Code-2007.

AND

In the matter of: Northern India Steel Rolling Mills, Guru Ki Nagri, Mandi Gobindgarh, District Fatehgarh Sahib (Punjab) through its partner Sh. Raj Kumar Goyal.

....Petitioner

VERSUS

Punjab State Power Corporation Limited (PSPCL), The Mall, Patiala through its Chairman cum Managing Director.

....Respondent

Present: Ms. Kusumjit Sidhu, Chairperson
Sh. S.S. Sarna, Member
Ms. Anjali Chandra, Member

ORDER

Northern India Steel Rolling Mills, Guru Ki Nagri, Mandi Gobindgarh, District Fatehgarh Sahib (Punjab) has filed the present petition for taking necessary action against the respondent and its officials for violating the provisions of Supply Code- 2007.

2. The petition was taken up for hearing on admission on 06.06.2018 and the Commission directed to issue notice to PSPCL to file reply on admission of the petition. PSPCL filed reply to the

petition on admission vide memo no. 5366 dated 31.07.2018 and the petitioner filed rejoinder thereto vide letter dated 24.09.2018. After hearing the parties, the petition was admitted vide order dated 11.10.2018 further directing PSPCL to file its comprehensive reply to the petition. PSPCL filed its reply vide memo no. 5241 dated 18.12.2018 and petitioner filed rejoinder thereto vide letter dated 09.04.2019. After hearing the parties Order was reserved vide order dated 30.07.2019.

3. The petitioner has submitted that it has set up an induction furnace unit with a contract demand of 4641 kVA and 3944.956 kW as sanctioned load and the connection was released on 11 kV voltage supply by the respondent. The petitioner applied for conversion of his supply from 11 kV to 66 kV and also requested for extension of load by 994 kW/994 kVA which was accepted vide memo no. 16881 dated 25.08.2004 and the petitioner was asked to deposit the earnest money at the rate of Rs. 100/- per kW. The petitioner deposited the amount of Rs. 97100/- on 12.10.2004.

3.1 That the application for conversion of electricity supply voltage from 11 kV to 66 kV and extension of load was considered by the Feasibility Clearance Committee in its meeting on 01.04.2005 wherein it was decided that firstly the existing load of Bharri Sub-station from 66 kV substation Grain Market be shifted to 220 kV substation G-2 Mandi Gobindgarh and only thereafter the case of conversion of supply voltage of the petitioner from 11 kV to 66 kV will be considered. The respondent issued a bill in the month of April, 2007 demanding a sum of Rs. 10,75,354/- on account of voltage surcharge @ 17.5% on the actual consumption charges. The petitioner represented against this demand to the

respondent and the petitioner was assured that the matter would be looked into. With a view to avoid imposition of late payment surcharge and disconnection of electricity, the petitioner deposited the consumption bill including the voltage surcharge under protest along with letter dated 14.05.2007.

3.2 The respondent again issued the bill dated 31.05.2007 with an amount of Rs. 1,28,40,615/- to be paid on 11.06.2007 and having no other option the petitioner filed C.W.P No. 9255 of 2007 before the Hon'ble Punjab and Haryana High Court challenging the demand of high voltage surcharge and prayed to quash the bills raised by the respondent for the month of April, 2007 onwards, restrain the respondent from imposing and levying voltage surcharge @ 10% , 17.5% on the pretext that the petitioner has not shifted to 66 kV supply voltage, refund of the voltage surcharge already recovered and stay of levy of high voltage surcharge during the pendency of the writ petition. The petitioner, vide application dated 19.09.2007, applied under the Right of Information Act, 2005 asking for the status of feasibility clearance of change of Electricity Supply Voltage from 11 kV to 66 kV. The Superintending Engineer, Distribution circle, Khanna vide letter dated 04.10.2007 informed that the work of granting feasibility for conversion of 11 kV to 66 kV would be taken up after shifting of load at Bharri Sub-station, which is being done shortly.

3.3 The existing load of 66 kV of Bharri sub-station was shifted from Grain Market Sub-Station to 220 kW, G-2 Station on 20.12.2007. The respondent took more than 2-1/2 years for shifting the load of Bharri Sub-station. The Punjab State Electricity Regulatory Commission (the Commission) issued PSERC (Electricity Supply Code and Related Matters), Regulations, 2007

applicable w.e.f. 01.01.2008 and as per Regulation 5.6 and 6.2 of the Supply Code – 2007, the feasibility clearance has to be given within 30 days and in case the respondent is not able to give feasibility clearance within 30 days it has to seek extension from the Commission and the demand notice has to be issued within a period of 10 days after submission of Application and Agreement (A & A) form.

3.4 The shifting of the load of Bharri Sub-station to 220 kV was intimated to the Chief Engineer, Commercial by the Superintending Engineer Distribution, Circle Khanna on 08.04.2008. The feasibility clearance was granted by the feasibility committee on 14.07.2008 after a gap of more than 4 years from the date of application made by the petitioner for extension of load and change of supply from 11 kV to 66 kV. The petitioner submitted A&A form and deposited security amount of Rs. 6,10,900/- on 08.09.2008 and as per regulation 6.2 of the Supply Code 2007 the demand notice was required to be issued within 10 days thereafter i.e. upto 18.09.2008.

3.5 The Hon'ble Punjab and Haryana High Court dismissed the CWP filed by the petitioner with a common order dated 27.04.2009 passed in CWP No. 8451 of 2007 along with the said CWP no. 9255 of 2007. The petitioner filed LPA No. 670 of 2009 challenging the order dated 27.04.2009. The Hon'ble Punjab and Haryana High Court dismissed the LPA along with other LPAs vide order dated 09.09.2011. The petitioner filed a review petition for reviewing the order dated 09.09.2011 which was dismissed by the Hon'ble High Court vide order dated 20.11.2012. The petitioner filed SLP no. 10671 of 2013 before the Hon'ble Supreme Court which was dismissed vide order dated 05.04.2013 with a liberty to

the petitioner to file a review petition in the High Court. The petitioner again filed review petition in the Hon'ble High Court which was dismissed vide order dated 12.07.2013. The petitioner filed SLP No. 19720-19722 of 2013 in the Hon'ble Supreme Court and the Hon'ble Supreme Court dismissed the same vide order dated 18.11.2013.

3.6 The respondent disconnected the electricity connection of the petitioner on 13.12.2012 on account of non-payment of voltage surcharge as demanded vide the bill dated 29.11.2012. The petitioner is not challenging the issue whether the voltage surcharge can be recovered from the petitioner or not as the same issue was agitated before the Hon'ble High Court and Hon'ble Supreme Court of India. The petitioner has filed the present petition as the respondent failed to follow the regulations framed by the Commission. As per Section 142 and 146 of the Electricity Act, 2003 in case any person violates the provisions of regulations framed by the Commission then the Commission is competent to take necessary action against the said person. It is clear that as per clause 5.6 of the supply code, 2007 the feasibility clearance has to be granted within 30 days from the date of application and in case there is a delay then the permission has to be taken from the Commission for extension of time. The Supply Code, 2007 was made applicable from 01.01.2008 and on that date the application for feasibility clearance was lying pending with the respondent. The feasibility clearance was granted by the respondent in the meeting dated 14.07.2008 and as per the regulation 6.2 of the Supply Code, 2007 the demand notice was required to be issued within 10 days from the date A&A form is submitted by the petitioner. The petitioner submitted A&A form and deposited the

security amount of Rs. 6,10,900/- on 08.09.2008 within the period as allowed in the feasibility clearance and thereafter demand notice was issued on 04.01.2010 in clear violation of clause 6.2(b) of the Electricity supply code. The respondent issued the demand notice after gap of 16 months which is violation of regulation 6.2 of the supply code, 2007 and the respondent and its officials are liable to be punished under Section 142 and 146 of the Electricity Act, 2003.

3.7 That as per Regulation 6.3 of the Supply code, 2007 the connection and extension of load has to be done within one month from the date the A&A form is submitted by the consumer. The respondent failed to give the additional load and convert the supply voltage from 11 kV to 66 kV within a mandatory period of 30 days and also failed to take the necessary permission of the Commission for extension of time. Even the amount of more than Rs. 1.5 crore spent by the petitioner on erection of sub-station in its premises was also wasted. The respondent has no right to ask for any voltage surcharge from the date the petitioner applied for conversion of supply voltage from 11 kV to 66 kV. The petitioner also deposited amount on account of line expenses, ACD and 66 kV bay charges totaling Rs. 14815351/-. The petitioner applied for testing office grid equipments and deposited testing fees of Rs. 35140/- on 29.03.2011 and applied on 15.04.2011 regarding completion of grid substation and the same was passed on 19.04.2011. The work of construction and laying of 66 kV line was started, however after completion of the foundation for some towers further work of installation of tower and laying of 66 kV lines was stopped by the respondent without any fault of petitioner. The petitioner approached the officials of the Punjab Mandi Board and

suggested that there may be some amendment to the existing route / lines and the revised route was approved by the Punjab Mandi Board which was sent to Chief Engineer, TLSC Circle, Patiala.

3.8 The HPERC in case of M/s Jaiswal Metals Pvt. Ltd. Vs. Secretary, HPSEB has held w.r.t Regulation 52 of the HPERC (Conduct of Business) Regulations, 2005 and section 142 of the Electricity Act, 2003 regarding levy of the low voltage supply surcharge on Large Supply category consumers that the Low Voltage Surcharge is leviable but for the period the Distribution Licensee took time in conversion of supply no charges can be recovered from the consumer.

3.9 The petitioner had deposited the charges as demanded by the respondent. If the respondent had granted the feasibility clearance and issued demand notice within the time frame specified by the Commission, the amount of service connection charges and other charges etc. would have been much less than the amount demanded from the respondent. The Commission decided the petition no. 68 of 2012 titled as M/s S.S. Concast Pvt. Ltd. V/s PSPCL vide order dated 08.04.2013 wherein the Commission directed PSPCL to charge SCC from the petitioner as per the prevalent rates on 29.08.2012 or actual expenditure for release of connection whichever is higher and refund the excess amount charged from the petitioner and accordingly the amount demanded by the respondent vide demand notice dated 04.01.2010 is required to be revised to the amount which was payable at the time, the petitioner has applied for conversion of supply voltage from 11 kV to 66 kV and the remaining amount has to be refunded to the petitioner with

interest.

3.10 That there is no limitation for filing the petition before the Commission. The Hon'ble Supreme Court of India in case of A.P. Power Corporation Committee Vs. Lanco Kondapalli Power Ltd., (2016)3 SCC 468 held that Limitation Principles are inapplicable to the proceedings before the Commission in respect of its other powers or functions which are administrative or regulatory in nature though these are applicable in the disputes of Licensees and generators under Section 86(1)(f) of the Electricity Act, 2003.

3.11 The petitioner has prayed that:

- a) Necessary action may be taken against the respondent and its officials under Section 142 and 146 of the Electricity Act, 2003 for violating the provisions of the Supply Code, 2007.
- b) The respondent be directed to not charge any amount on account of voltage surcharge for the period it failed to convert the supply voltage from 11 kV to 66 kV though the petitioner had applied for the same.
- c) The respondent be directed to recalculate the amount mentioned in the demand notice on the basis of the rates applicable when the respondent was required to be issued demand notice as per regulation 5.6 and 6.2 of the supply code, 2007 and the balance extra amount charged from the petitioner may kindly be ordered to be refunded to the petitioner with applicable rate of interest.
- d) Any other relief or order which the Commission may deem fit and proper in the facts and circumstances of the case may also be passed in favour of the petitioner.

4. PSPCL submitted in reply to the petition that the dispute raised by the petitioner is with respect to charging of voltage surcharge by the respondent. The petitioner has already sought the said relief in the CWP filed before the Hon'ble Punjab and Haryana High Court which was contested upto the Hon'ble Supreme Court. The relief was declined and the same has now been sought by the petitioner before the Commission therefore, the petition filed by the petitioner is barred by the principle of res-judicata. The Principal of res-judicata enshrined under section 11 of the civil procedure code reads as under:-

“No Court shall try any suit or issue in which the matter directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court”.

The petitioner has challenged the act of charging voltage surcharge before the courts. A perusal of the order passed in the writ petition by the Hon'ble High Court as well as Supreme Court shows that the dispute pertains to voltage surcharge only. Now the petitioner with an oblique motive has approached the Commission again. Hence, the Commission has no jurisdiction upon the matter and the instant petition is not maintainable and deserves to be dismissed.

4.1 That the surcharge of the petitioner firm was waived off by the respondent from time to time meaning thereby that the petitioner firm has availed the benefit by way of waiving of

surcharge charges. Since the petitioner firm has already been compensated by the respondent therefore, the petitioner cannot claim benefit second time for the same cause.

4.2 That the respondent has filed civil suit no. 259 of 2015 before the court of Judicial Magistrate 1st Class Mandi Gobindgarh for recovery of its legitimate dues against the respondent, which is pending adjudication, and the petitioner has failed to point out any violation of any rules and regulations on the part of the respondent. In the absence of any such violation on the part of the respondent, the directions sought by the petitioner cannot be granted.

4.3 That the petitioner is estopped from filing the present petition on account of his own act and conduct. The petitioner has deposited an amount of Rs. 1,47,00,600 with the respondent without protest and once the petitioner has accepted the estimated cost, the petitioner cannot challenge the same at this stage.

4.4 That the averments made by the petitioner are misconceived the survey was conducted for the purposes of erection of 66 kV line and the matter pertaining to feasibility clearance was also under active consideration. A legitimate and legally sustainable demand in accordance with the applicable rules was made by the respondent and the consumer is bound to pay the requisite fee as demanded by the respondent. In case the petitioner fails to deposit the requisite fee, the demand of the applicant cannot be considered by the respondent.

4.5 That the respondent took only reasonable time for the purposes of shifting of the substation in question and following the due process, rules and regulations shifted the same. The averments pertaining to delay on the part of the respondent are wrong and misconceived. The delay if any has occurred due to

lapses or multifarious litigation initiated by the petitioner. The petitioner has lost in all the courts and the demand raised by the respondent was held to be valid and sustainable. The respondent, after receiving A&A form from the petitioner, immediately wrote to TLSC for preparing the estimate cost of shifting of line from 11 kV to 66 kV and immediately after receiving the same issued the demand notice dated 04.01.2010. The petitioner took more than 12 months in submission of the said amount hence the allegations made by the petitioner are incorrect. The office of Punjab Mandi Board raised certain objection in reference to installation of the bay line and as a result the work remained stand still for some time. On sorting out of the same the work was executed immediately thereafter and the connection was converted into 66 kV.

4.6 The petitioner itself approached the Hon'ble High Court wherein initially stay was granted and hence the matter was kept pending with the authorities. The moment the matter came to an end, the respondent made the necessary compliances of the mandate of procedure.

4.7 The petitioner was informed about the estimate prepared by the concerned superintendent engineer and the amount was duly paid by the petitioner without any protest. Now after a lapse of more than 7 years, the objections of the petitioner are not sustainable in the eyes of law.

4.8 The case titled as M/s Jaiswal Metals Pvt. Ltd. Vs. the Secretary, HPSEB decided by the H.P. Electricity Regulatory Commission referred by the petitioner is not applicable to the facts of the present case. The petitioner has not raised any challenge to the circulars issued by the respondent. The demand raised by the respondent is legitimate and sustainable and the petitioner is liable

to pay the said charges along with interest @ of 17.5% per annum and the petition deserves to be dismissed with exemplary cost.

5. The petitioner firm filed its rejoinder to the reply filed by PSPCL on 09.04.2019. The petitioner has submitted that the relief was never claimed before the Hon'ble High Court and the Hon'ble High Court has no power under section 142 and 146 of the Electricity Act, 2003. The Commission has power to regulate the licensee and in case it is found that the licensee has played a fraud and violated the provision of the Act, the Commission has every right to take necessary action against the licensee and its officials. The case of the petitioner is that respondent and its officials concealed actual facts from the Hon'ble High Court and Supreme Court and filed wrong affidavits and played a fraud and violated the provisions of the Regulations framed by the Commission. The Hon'ble Supreme Court in case of S.P. Changalvaraya Naidu (dead) by L.Rs. vs. Jagannath (dead) by L.Rs. 1994 (1) SCC1, held that a judgment and decree obtained by playing a fraud on the court is a nullity and nonest in the eyes of law.

5.1 The respondent has admitted that the petitioner has paid Rs. 1,47,00,600/- to the respondent. The respondent cannot take a plea that the said amount was paid without any protest and so the same cannot be challenged. The respondent has to justify the amount charged by it by placing on record necessary records and direction may kindly be given to the respondent to produce detailed calculations for the just decision of the present petition.

5.2 The case of the petitioner is that it applied for conversion of its supply from 11kV to 66 kV in the 2004 itself but the respondent denied this fact before the Hon'ble High Court in the writ petition

which proves that the judgment of the Hon'ble High Court was obtained by the respondent by playing a fraud.

5.3. The petitioner applied for extension and conversion of load from 11kV to 66 kV. The delay occurred due to survey and feasibility clearance which is not due to any fault of the petitioner and the demand raised by the PSPCL was totally wrong and illegal.

5.4. The respondent has failed to produce on record any documents, rules or regulations to show that it requires 2-1/2 year to shift the load of the Bharri substation. PSPCL has not placed on record intentionally any such document to justify taking of 2-1/2 years in shifting the load and concealed the best evidence from the Commission for the reasons best known to it.

5.5. The Hon'ble High Court never stopped the respondent from changing the voltage level of the petitioner from 11kV to 66 kV and the reference of Section 56 of the Electricity Act given by the respondent is totally wrong. After the feasibility was granted on 14.07.2008, the petitioner submitted A&A form on 08.09.2008 and as per regulation 6.2 of the Supply Code, 2007 the demand notice was required to be issued within 10 days thereafter i.e. upto 18.09.2008. In case the respondent was facing any problem regarding right of way then it was required to approach the Commission for extension of time but it failed to do so. The respondent has also not denied the fact that the Demand Notice was issued for depositing Rs. 1 crore towards line charges, Rs. 41 lacs towards bay charges and Rs. 5.5 lacs towards civil works without giving any calculation/working details. The line in question was never completed by PSPCL and the load was never shifted on

66 kV.

5.6. The issue before the Hon'ble High Court and Supreme Court was whether the petitioner is liable to pay voltage surcharge amount or not. Whereas the issue before this Commission is whether PSPCL has failed to comply with the rules and regulation framed by the Commission or not.

5.7. The respondent has failed to demonstrate how filing of writ petition caused delay in shifting of substation Bhari and granting of Grid Feasibility. The respondent may kindly be directed to produce on record all files, documents, records etc. before the Commission relating to the granting of Grid Feasibility to the petitioner, changing of load at Bhari Substation, changing of supply voltage of connection of the petitioner and laying the 66kV line, so that the truth is brought before the Commission.

5.8. On the issue of limitation, the petitioner referred to Hon'ble Supreme Court of India judgment in case titled as AP Power Coordinate Committee v/s Lanco Kondapalli Power Ltd. (2016) 3 SCC 468, wherein it has been held that limitation principles are inapplicable to the proceedings before the Commission in respect of its power or functions which are administrative or regulatory in nature. However, the limitation principles are applicable in respect of its judicial powers under section 86(1)(f) of the Electricity Act, 2003. As the present dispute is regarding regulatory powers, so the petition is maintainable before this Commission. The petitioner also referred to the decision of the Hon'ble Appellate Tribunal of Electricity in Appeal No.127 of 2013 titled as M/s Lafarge India Pvt. Ltd. v/s Chhattisgarh State Electricity Regulatory Commission wherein it has been held that limitation Act is not applicable to the proceedings of Electricity Regulatory Commission.

6 Observations, Findings and decision of the Commission.

The Commission has examined the petition, the reply filed by PSPCL, rejoinder of the petitioner to the reply filed by PSPCL, the documents adduced on record by the parties and submissions made by the parties during arguments.

In view of the submissions of the petitioner mentioned in preceding paras that he is only seeking action under Section 142 & 146 of the Act, we will only examine the issue as to whether it is a fit case for initiating proceedings under section 142 & 146 of the Act at this belated stage. The Commission during hearing on 24.07.2019 again asked the learned counsel appearing for the petitioner to justify the inordinate delay in filing the petition before the Commission. The counsel submitted that it was due to lack of knowledge on his part.

Where the issue of limitation is concerned, the legal position has been settled by the Hon'ble Supreme Court of India that the Limitation Act, 1963 is inapplicable in matters concerning the administrative and regulatory powers of the Commission but is applicable in respect of its judicial powers under section 86(1)(f) of the Electricity Act 2003. Although the connection of the petitioner was permanently disconnected in December, 2012 and he is no more a consumer of the licensee however, the petitioner has the right to approach the Commission for initiating proceedings against the licensee under section 142 and 146 of the Act. The Limitation Act, 1963 is not applicable in this case. However, we have to examine the issue before us on the principle of delay and laches as laid down by Hon'ble Appellate Tribunal of Electricity and various other courts. The settled law on the point of delay and laches is that the court refuses to assist a person who sleeps

upon his rights and neglects to enforce them within reasonable time and with reasonable diligence. The Hon'ble Appellate Tribunal of Electricity in its order dated 19.10.2015 in Appeal No.285 of 2014 has held in para 11.7 that;

“The Doctrine of laches, according to CHITTY, J. In In re Birch [(1884) 27 Ch.D. 622. 627] means doing nothing. Lapse of time or delay in suing, unaccounted for by disability or ignorance or other circumstances constitutes laches. Courts refuse to assist a person who sleeps upon his rights and neglects to enforce them within a reasonable time and with reasonable diligence. The equitable principle of laches requires that a plaintiff seeking an equitable remedy must come to court quickly once he knows that his rights are being infringed. Delay in seeking an equitable remedy is technically known as laches and will disentitle the claimant to come in and establish his claim even if the claim is not disputed. Laches only applies to equitable claims not covered by statutory prescriptions either directly or by way of analogy. It is but an application of the principle that delay defeats equities. The doctrine of laches in Courts of equity is not an arbitrary or technical doctrine. Where it would be practically unjust to give a remedy either because the party has by his conduct done that which might fairly be regarded as an equivalent to a waiver of it, or where by his conduct and neglect he has, though perhaps not waiving that remedy put the other party in a situation in which it could not be reasonable to place him if the remedy were afterwards to be asserted, in either of these cases lapse of time and delay are most material. Two circumstances always important in such cases are, the length of the delay and the nature of the acts done during the interval which might affect to either party and cause a balance of justice or injustice in taking the one course or the other so far as relates to the remedy. The Limitation is distinguished from laches as limitation is founded on considerations of public policy; the doctrine of laches is based on equitable considerations. Limitation rests upon express law; laches depends upon general principles. Rules of limitation are inflexible; laches represents conclusions drawn from the facts of each particular case. Laches may be adapted to the facts of a case; limitation however is a matter of inflexible law irrespective of whether there is laches or not. Like limitation, delay or laches destroys the remedy, but not the right.”

From the facts of the case, it is evident that the principle of delay and laches is fully applicable in the present case. The Supply Code, 2007 was notified in June, 2007 and was made applicable from 01.01.2008. The feasibility clearance was granted to the petitioner on 14.07.2008. In case there was any violation of regulation 5.6 of the Supply Code, 2007, the petitioner should have approached the Commission for its remedy within a reasonable time. Similarly, as per the claim of the petitioner, the A&A form was submitted on 08.09.2008 and as per regulation 6.2(b) of the Supply Code, 2007, the demand notice was required to be issued by 18.09.2008 but was issued on 04.01.2010 with revised Service Connection Charges. The petitioner deposited the charges in December, 2010 without any protest. In case there was any violation of the Supply Code, 2007, the petitioner should have approached the Commission within a reasonable time. There is no merit in the argument of the petitioner that he was not aware of his rights and the remedies available to him. The copy of the writ petition filed by the petitioner before the Hon'ble Punjab & Haryana High Court and annexed with the present petition clearly indicate that the petitioner was well-aware of the commercial instructions prevalent at that time, various provisions of the Electricity Act 2003, the General Condition of Tariff and various other provisions of the tariff orders issued from time to time by the Commission. The petitioner even approached the Commission in the year 2011 in petition no. 23 of 2011 for seeking remedy under PSERC Open Access Regulations, 2005 read with tariff order for FY 2010-11 and provisions of Electricity Act, 2003. Thus we reject the argument of the petitioner that he was not aware of the Rules/Regulations

without prejudice to the same, ignorance of law in any case is not an acceptable plea.

The petitioner quoted the decision of this Commission dated 08.04.2013 in petition No. 68 of 2012 but the petitioner failed to justify the delay of more than 6 years in approaching the Commission on a similar matter. The Hon'ble APTEL in para 11.9 of its above mentioned order dated 19.10.2015 quoted various judgments and held as under;

“11.9 The Hon'ble Supreme Court vide its judgment dated 10.11.2006 in Civil Appeal No.4790 of 2006 in the matter of Chairman, U.P. Jal Nigam & Anr. Vs. Jaswant Singh & Anr. while dealing with the proposition to grant relief to the persons who were not vigilant and did not wake up to challenge their retirement and accepted the same by filing writ petitions after a very long delay has held that the delay and laches is an important factor to be considered in the exercise of discretionary relief. When a person who is not vigilant of his rights and acquiesces with the situation, his writ petition cannot be heard after a couple of years on the ground that the same relief should be granted to them as was granted to person similarly situated. The Hon'ble Supreme Court in the case of M/s Rup Diamonds & Ors. v. Union of India & Ors. reported in (1989) 2 SCC 356 observed that those people who were sitting on the fence till somebody else took up the matter to the court for refund of duty, cannot be given the benefit.-----.”

In view of the settled position, as mentioned above, the decision of the Commission dated 08.04.2013 cannot be made applicable to the petitioner after more than 6 years. Thus there is no justification to seek action against the distribution licensee or its

officials under Section 142 and 146 of the Act after a lapse of more than 10 years. We are fully satisfied that as per the principle of delay and laches, the prayer of the petitioner to initiate action under section 142 and 146 of the Act cannot be accepted and accordingly the petition is dismissed.

Sd/-
(Anjuli Chandra)
Member

Sd/-
(S.S. Sarna)
Member

Sd/-
(Kusumjit Sidhu)
Chairperson

Chandigarh
Dated: **13.09.2019**

