PUNJAB STATE POWER CORPORATION LIMITED
(O/O CE/Commercial, Patiala, Ph.No.0175-2214495)
Regd. Office- PSEB Head Office, The Mall, Patiala-147001
Tele Fax:.0175-2210320 email: ce-commercial@pspcl.in

ਵਣਜ ਗਸ਼ਤੀ ਪੱਤਰ ਨੰ: 53/2013

To

ਸਾਰੇ ਇੰਜਨੀਅਰ-ਇਨ-ਚੀਫ/ਮੁੱਖ ਇੰਜਨੀਅਰਜ਼ / ਵੰਡ
ਅਧੀਨ ਪੰਜਾਬ ਸਟੇਟ ਪਾਵਰ ਕਾਰਪੋਰੇਸਨ ਲਿਮਟਿਡ।

Memo No. 484 /88 /DD/SR-1
Dated: 27/11/13

Sub:- Order dated 26/9/13 passed by Hon'ble Punjab and Haryana High Court in CWP 10644 of 2010 filed by Apex Chamber of Commerce & Industry (Punjab) versus PSERC and others.

In CWP 10644 of 2010, Apex Chamber of Commerce & Industry (Punjab) versus Punjab State Electricity Regulatory Commission and others, Hon'ble Punjab and Haryana High Court has passed an order dated 26/9/13 and adjudicated therein that if any action is to be taken against any consumer, the required notice would not be under the Conditions of Supply for any infringement, but for infringing any provisions of the Electricity Act, 2003 or Regulations framed thereunder or tariff order. Copy of judgement of Hon'ble Punjab and Haryana High Court is also enclosed for your reference.

Meticulous compliance of the above orders of Hon'ble Punjab and Haryana High Court may please be ensured.

This issues with the approval of competent authority.

Harjeet Kaur
SE/Sales-I
PSPCL, Patiala.

ਪਿੱਠ ਅੰਕਣ ਨੰ:/ 984 /1023 DD/SR -1 ਮਿਤੀ: 27/11/2013

ਉਪਰੋਕਤ ਦਾ ਉਤਾਰਾ ਹੇਠ ਲਿਖਿਆਂ ਨੂੰ ਸੂਚਨਾ ਅਤੇ ਲੋੜੀਂਦੀ ਕਾਰਵਾਈ ਲਈ ਭੇਜਿਆ ਜਾਂਦਾ ਹੈ:-

1. ਚੇਅਰਮੈਨ-ਕਮ-ਮੈਨੇਜਿੰਗ ਡਾਇਰੈਕਟਰ, ਪੰਜਾਬ ਰਾਜ ਪਾਵਰ ਕਾਰਪੋਰੇਸ਼ਨ ਲਿਮ, ਪਟਿਆਲਾ।
2. ਸਾਰੇ ਨਿਰਦੇਸ਼ਕ, ਪੰਜਾਬ ਰਾਜ ਪਾਵਰ ਕਾਰਪੋਰੇਸ਼ਨ ਲਿਮ, ਪਟਿਆਲਾ।
3. ਵਿੱਤ ਕਮਿਸ਼ਨਰ/ਫਾਇਨਾਸ ਟੂ ਗੋਰਮਿੰਟ ਪੰਜਾਬ ਐਕਸ ਆਫੀਸ਼ੋ ਮੈਂਬਰ, ਪੀ.ਐਸ.ਈ.ਆਰ.ਸੀ, ਚੰਡੀਗੜ੍ਹ।
4. ਸਕੱਤਰ/ ਬਿਜਲੀ ਵਿਭਾਗ, ਪੰਜਾਬ ਸਰਕਾਰ, ਚੰਡੀਗੜ੍ਹ।
5. ਸਕੱਤਰ, ਪੰਜਾਬ ਸਰਕਾਰ/ਇੰਡ: ਅਤੇ ਕਾਮਰਸ ਵਿਭਾਗ, ਪੰਜਾਬ ਸਰਕਾਰ, ਚੰਡੀਗੜ੍ਹ।
6. ਪ੍ਰੈਜ਼ੀਡੈਂਟ,ਸਟੇਟ ਡਿਸਪਿਊਟ ਰਿਡਰੈਸਲ ਕਮਿਸ਼ਨ (ਪੰਜਾਬ) SCO ਨੰ: 3009-10, Sec-22, ਚੰਡੀਗੜ੍ਹ

7. ਮੁੱਖ ਇੰਜੀਨੀਅਰ/ ਚੇਅਰਮੈਨ (ਫੋਰਮ), ਪੀ.-1, ਵਾਈਟ ਹਾਊਸ, ਰਾਜਪੁਰਾ ਕਲੋਨੀ, ਪਟਿਆਲਾ।
8. ਸਕੱਤਰ, ਪੰਜਾਬ ਰਾਜ ਬਿਜਲੀ ਰੈਗੂਲੇਟਰੀ ਕਮਿਸ਼ਨ, SCO.ਨੰ: 220-221, ਸੈਕਟਰ-34 ਏ, ਚੰਡੀਗੜ੍ਹ।
9. Ombudsman, Electricity Punjab 66 KV Grid Sub Stn., Plot no. A-2, Industrial Area, Phase-1, SAS Nagar (Mohali)-160055
10. ਨਿੱਜੀ ਸਕੱਤਰ ਟੂ ਬਿਜਲੀ ਮੰਤਰੀ, ਪੰਜਾਬ ਸਿਵਲ ਸਕੱਤਰੇਤ ਪੰਜਾਬ ਸਰਕਾਰ ਚੰਡੀਗੜ੍ਹ।
11. ਚੀਫ ਕੋ-ਆਰਡੀਨੇਟਰ, ਉਦਯੋਗ ਸਹਾਇਕ ਡਾਇਰੈਕਟਰ ਆਫ ਇੰਡੀਸਟਰੀਜ਼ ਪੰਜਾਬ Sec-17, ਚੰਡੀਗੜ੍ਹ।
12. Chief Administration & IR, PSPCL. Patiala.
13. ਮੁੱਖ ਬਿਜਲੀ ਇੰਸਪੈਕਟਰ, ਪੰਜਾਬ ਸਰਕਾਰ, ਪਟਿਆਲਾ।
14. Chief Auditor,PSPCL, Patiala.
15. Chief Engineer / ARR & TR, PSPCL, Patiala.
16. ਐਸ.ਈ. / ਆਈ.ਟੀ., ਪੀ.ਐਸ.ਪੀ.ਸੀ.ਐਲ., ਪਟਿਆਲਾ ਨੂੰ ਪੀ.ਐਸ.ਪੀ.ਸੀ.ਐਲ. ਦੀ ਵੈਬ ਸਾਈਟ ਤੇ ਅਪਲੋਡ ਕਰਨ ਹਿੱਤ।
17. Dy.CE/Sales-I, Dy.CE/Sales-2 and Dy.CE/Billing, PSPCL
18. All Addl SEs / Sr.Xens / AEEs under Commercial organization, PSPCL.
19. Under Secy/Meetings with reference to his U.O No 3113/BOD-30.20/2013/PSPCL dated 26/9/13.

ਵਧੀਕ ਨਿਗ.ਇੰਜ:/ਐਸ.ਆਰ,
ਵਾ: ਮੁੱਖ ਇੰਜੀਨੀਅਰ/ਵਣਜ,
ਪੀ.ਐਸ.ਪੀ.ਸੀ.ਐਲ.,ਪਟਿਆਲਾ।

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CIVIL WRIT PETITION NO. 10644 OF 2010

Apex Chamber of Commerce & Industry (Punjab) (a registered society under Societies Registration Act, 1860) 2nd Floor, Savitri Complex, G.T. Road, Ludhiana, through its authorized signatory Sh. Davinder Kumar Mehta.

Petitioner..

VERSUS

1. Punjab State Electricity Regulatory Commission, SCO 220-221, Sector 34-A, Chandigarh through its Secretary.
2. Punjab State Power Corporation Ltd. (POWERCOM) through its Managing Director, The Mall, Patiala.
3. Punjab State Transmission Corporation Ltd. (TRANSCO) through its Managing Director, The Mall, Patiala.

Respondents

Civil Writ Petition under Article 226 of the Constitution of India praying for issuance of a writ in the nature of Certiorari for quashing the clause 3, 3.1 and 3.2 of the Punjab State Electricity Regulatory Commission (Electricity Supply Code and Related Matters), Regulations, 2007,(Annexure P-2) framed by respondent No.

1 vide which respondent No. 1 has authorized to a licensee to frame 'conditions of supply', being ultra vires of provisions of Electricity Act, 2003;

And further for issuance of a writ in the nature of Certiorari for quashing the 'Conditions of Supply' (Annexure P-3) framed by Punjab State Electricity Board and approved by respondent No. 1 , being ultra virès of provisions of Electricity Act , 2003.

Any other writ , order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of case may also be issued in favour of the petitioner.

.....

RESPECTFULLY SHOWETH:

1. That the petitioner is a registered society under societies registration Act, 1860 and was registered by Registrar of Firms and Societies Punjab and having registered office in Ludhiana. The petitioner being registered in Punjab is competent to invoke the jurisdiction of this Hon'ble Court under article 226 of the Constitution of India.

2. That the industrial and commercial institutions are the members of the petitioner association and having factories etc. in the state of Punjab and are having electricity connections to run their units . The respondent who been given power to frame regulations by virtue of provisions of Electricity Act, 2003 have violated the provisions of Electricity Act,2003 and further delegated the power to frame conditions of supply to licensee and in pursuance to that power given

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-10644-2010
Date of decision:-26.09.2013

Apex Chamber of Commerce & Industry (Punjab)

...Petitioner

Versus

Punjab State Electricity Regulatory Commission and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY KISHAN KAUL, CHIEF JUSTICE
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Deepak Sibal, Advocate (Amicus-Curiae)

Mr. Tejinder K. Joshi, Advocate,
for the petitioner.

Mr. Sanjiv Pabbi, Advocate,
for respondent No. 1.

Mr. Vikas Chatrath, Advocate,
for respondents No. 2 and 3.

* * * *

SANJAY KISHAN KAUL, C.J. (ORAL)

The petitioner, namely, Apex Chamber of Commerce & Industry, Punjab has filed the present writ petition under Article 226 of the Constitution of India seeking to lay a challenge to clauses 3, 3.1 and 3.2 of the Punjab State Electricity Regulatory Commission (Electricity Supply Code and Related Matters) Regulations, 2007 framed by respondent No. 1/Punjab State Electricity Regulatory Commission (hereinafter referred to as the Commission) to the extent it authorizes a licensee to frame conditions of supply as the same would be ultravires of the provisions of the Electricity Act, 2003 (hereinafter referred to as the said Act). The sequitur relief claimed is of quashing the conditions of supply annexed as Annexure P3 as being violative of the provisions of the said Act.

We have examined the controversy in the context to the submissions made by learned counsel for the parties and Mr. Deepak Sibal, learned Amicus Curiae.

It is not disputed before us by any of the parties that in order to have an enforceable action against any consumer the authority must be derived from the provisions of the said Act or the regulations framed under Section 181 of the said Act as per the procedure prescribed. In that context,

learned Amicus Curiae has rightly pointed out that there is in fact no sub-delegation under clause 3, which is sought to be assailed, as clause 3.2 only requires the licensee to submit the conditions of supply for approval of the Commission i.e. the final power vests with the Commission and only administrative act to make the conditions of supply was assigned. There is, thus, no sub-delegation as it has to come back to the Commission for final approval.

The question, however, arises as to what are these conditions of supply. Learned Amicus Curiae sought to contend before us that the conditions of supply may not independently have a force of law, as they appear to be an amalgam of different aspects i.e. most conditions deal with aspects under which the source of power is with regulations or they may be under different sections, but for some at least he could not locate the source to any of the aforesaid. It would always be open to the respondents to enforce those conditions by indicating their source to the provisions of the said Act or regulations framed thereunder. He has, however, hastened to add that in order to have a regulation to have a source of law it should have been placed at the floor of the House and notified.

Learned counsel for respondent No. 1, in fact, does not dispute the aforesaid proposition, but canvasses that the said Act which came into force in 2003 was preceded by the earlier Act of 1948 and there were certain norms in force under the older Act. He submits that the conditions of supply are really in the nature of a compilation to assist both the consumers and the supplier companies to understand the scope of their rights and obligations and facilitate distribution. These conditions of supply, learned counsel contends, are not in supercession or derogation of the powers under the said Act or regulations and to support the said submission has drawn our attention to condition 53 which reads as under:-

> *53. "Interpretation*
>
> *These conditions will be read and construed as being subject, in all respects, to the provisions of the Electricity Act, 2003, Supply Code or any modification thereof and to the Rules and Regulations framed thereunder and nothing contained in these conditions will abridge or prejudice the rights of the Board and the consumer under any other Central or State Act or Rules made thereunder."*

He, thus, fairly concedes that if any action is to be taken against any consumer, the required notice would not be under the conditions of supply for any infringement, but for infringing any provisions of the said Act or regulations framed thereunder or tariff order.

Learned counsel for the petitioner faced with the aforesaid situation submits that he cannot have any surviving grievance when the aforesaid principle is accepted by respondent No. 1/Commission, specifically, as we are dealing with the generality of the proposition in the present case and are not concerned with any individual notice issued to any consumer under the said Act, regulation or the tariff order.

The petition stands disposed of in the aforesaid terms.

We have placed on record the note submitted by learned Amicus Curiae dealing with each of the conditions of supply and their per se source and appreciate the assistance given by the learned Amicus Curiae.

(SANJAY KISHAN KAUL)
CHIEF JUSTICE

(AUGUSTINE GEORGE MASIH)
JUDGE

26.09.2013
Amodh