



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-4868-2021 (O&M)

Reserved on: 07.01.2025

Date of Pronouncement:25.02.2025

M/S ASIAN BIKES PVT.LTD.

-PETITIONER

V/S

PUNJAB STATE POWER CORPORATION LTD. AND OTHERS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Jivtesh Negi, Advocate,
for the petitioner.

Mr. Sehaj Bir Singh, Advocate,
for the respondents.

KULDEEP TIWARI, J.

1. Through the instant petition, a prayer is made issuance of a writ in the nature of certiorari quashing of Demand Notice bearing memo. no.37, dated 11.01.2021 (Annexure P-7), issued by respondent no.2 (distribution licencee), and the order dated 01.11.2017, passed by the CGRF, Patiala (Annexure P-3) whereby the respondents have been directed to refund the amount as per revised estimate to the petitioner, without any finding on payment of interest on the said amount.

2. The petitioners further seek quashing of order dated 25.06.2020 (Annexure P-5), passed by the CGRF, Ludhiana, and the order dated 23.12.2020 (Annexure P-6) passed by the learned

Ombudsman, wherethrough, the order passed by the CGRF, Patiala was upheld.

3. Further, a prayer is made for issuance of *mandamus* upon the competent respondents no.1, to refund the remaining unpaid amount alongwith interest payable on the entire amount of Rs.6,49,729/-, in terms of regulation 9.3.6 of the Supply Code, 2014, until the date of realisation.

4. Succinctly, the petitioner-firm was running an industrial unit having Sanctioned Load (LS) of 420 KW/KVA. The petitioner applied for extension of load and for which he deposited Rs.24,61,985/- on 15.10.2015 (Annexure P-1). Thereafter, the petitioner was granted Large Supply (LS) connection bearing account no.3003018071 with a Sanctioned Load (SL) of 990 KW, Contract Demand 995 KVA.

5. The plea, which was taken before the authority concerned, as well as CGRF, Patiala, is that, erroneously an excessive amount was got deposited by the petitioner-firm for extension of load, which is lying with respondents from 15.10.2015 to 05.03.2018, and the excessive amount, so deposited, was admitted by the respondents department in their reply before the CGRF, Patiala, which is Rs.6,49,726/-, as payable by them to the petitioner-firm. However, the respondents have only paid Rs.4,27,343/- however, no interest thereon was paid.

6. In the instant matter, the petitioner had filed a petition in the year 2017, before the CGRF, Patiala, for refund of excess amount so deposited by it, alongwith interest. The respondents caused appearance before the CGRF, Patiala, and in their reply, they admitted that an amount of Rs.6,49,726/- was payable by the respondent department, on account

of excess security charges deposited by the petitioner. The CGRF Patiala, after considering the petition as well as the reply of distribution licensee therein, directed the respondents, to revise the estimate as per the directions contained in letter of CE/TA & I. The respondents made the revision accordingly, and issued the revised estimates and refunded the amount of Rs.4,27,343/-, which reflects in the energy bill issued to the present petitioner on 05.03.2018, however, no interest was paid on the said amount. Therefore, the petitioner-firm approached the CRGF, Ludhiana, challenging the revised estimate, however, that was dismissed on account of maintainability. Thereafter, he preferred an appeal before the learned Ombudsman, Electricity, Punjab, SAS Nagar (Mohali). The learned Ombudsman, observed that the CGRF rightly dismissed the petition on the ground of maintainability, and further found that the petitioner remained quiet for about two years after issuance of revised estimate, and therefore, after delay of more than two years, the petitioner cannot approach the CGRF for redressal of his grievance.

7. Learned counsel for the petitioner during the course of argument, mainly placed reliance upon the reply filed by the respondents before the CGRF, Patiala (Annexure P-2), wherein, it was admitted by the respondents that the petitioner is entitled for refund to the extent of Rs.6,49,726/-, therefore, on account of specific admission, the respondents are liable to refund the said amount alongwith interest, in view of the terms of 9.3.6 of the Supply Code, 2014.

8. The aforesaid argument was duly refuted by learned counsel for the respondents. He submitted that in the reply (*supra*), it has been

mentioned that the refund of Rs.6,49,726/-, is required to be given to the consumers, and, that reply was considered by the CGRF, Patiala, and vide order dated 01.11.2017, the respondents were directed to reconsider and to revise the estimate as per the directions contained in letter CE/TA & I, and now in view of the specific direction and the *ibid* letter, the revised estimate was made.

9. He further submits that the petitioner is unable to point out any error in the revised estimate, therefore, there is no illegality requiring any interference of this Court.

10. Finally, he submits that the order passed by the learned Ombudsman concerned, also passed the test of legality, as the petitioner, after the lapse of more than 2 ½ years of refund of the amount, approached to the CGRF, Ludhiana.

11. This Court has considered the facts of the case, as well as the submissions as made by learned counsel for the parties concerned, and is of the considered view that there is no error apparent in the order passed by the learned Ombudsman, as well as CGRF.

12. Though, earlier before the CGRF, Patiala, in reply the respondents have produced the calculation showing the petitioner entitled for refund of Rs.6,49,726/-, however, on the directions of the CGRF, Patiala, the respondents again recalculated the estimate in view of the letter of CE/TA & I, and found that the petitioner is entitled for only Rs.4,27,343/-.

13. Learned counsel for the petitioner is unable to point out any error in the calculation made by the respondents, rather he has only

based his claim on the statement of reply (*supra*), filed before the CGRF, Patiala, at first instance.

14. This Court does not find any substance in the submissions of the petitioner. The respondents are not bound by the reply in question and specifically, when after considering the reply, the CGRF, Patiala, directed the respondents to reconsider the estimate in view of specific instructions contained in *ibid* letter of CE/TA & I.

15. Since the petitioner is unable to point out any contrary instructions, therefore, the impugned revised estimate (Annexure P-4) prepared by the respondents is, hereby, ordered to be **upheld**.

16. However, the only issue remains to be adjudicated, as to whether, the petitioner is entitled to interest from 15.10.2015 to 05.03.2018, in view of the terms of regulation 9.3.6 of the Code of 2014. At this juncture, it is apt to reproduce the Regulation 9.3.6. of the Code of 2014.

“9.3.6 After execution of work of the electric line or electrical plant as the case may be, the distribution licensee shall be entitled to demand from the applicant the total amount of expenditure actually incurred (recoverable amount) and adjust Security (works) against such recoverable amount. In the event of Security (works) being in excess of the recoverable amount, the excess amount shall be determined by the distribution licensee within sixty (60) days from the date of release of connection and refunded by adjustment against electricity bills of the immediately succeeding months. In case the distribution licensee fails to refund the excess amount and adjust it against electricity bills of the immediately succeeding months, the distribution licensee shall be liable to pay interest on the excess amount at twice the SBI's Base Rate prevalent on first of April of the relevant year plus 2% for the period of delay beyond sixty (60) days of the date of release of connection till the excess amount is adjusted. The amount of such interest shall be adjusted against the electricity bills thereafter. ”

17. In view of the above, the respondents are liable to pay interest as per the regulation (*supra*). Therefore, the instant petition is

disposed of with a direction upon the respondents to pay interest in terms of the regulation 9.3.6 of the Supply Code of 2014, on the amount of Rs.4,27,343/-, for a period of 15.10.2015 to 05.03.2018, within a period of 03 months from the date of passing of this order.

18. All pending application(s), if any, also stand **disposed of** accordingly.

February 25, 2025
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No