

**HARYANA ELECTRICITY REGULATORY COMMISSION  
SCO 180, SECTOR 5, PANCHKULA - 134 109, HARYANA**

**CASE NO. HERC/PRO – 3 OF 2004**

**Date of Hearing: 31.08.2004**

**Date of Order: 18.10.2004**

In the matter of petition filed by M/s Parshadamal Mukandi Lal, Rice Sheller, Village – Nasirpur, Hisar Road, Ambala City, seeking direction to the respondents to allow temporary disconnection of his premises under 'Force Majure' condition covered by Sales Circular No. 14/93 & 4/2001.

**Present: -**

1. Lt. Col. (Retd.) Raghbir Singh, Chairman, HERC
2. Sh. S.C. Katyal, Member, HERC,
3. Sh. T.R. Dhaka, Member, HERC

**On behalf of the Petitioner: -**

1. Sh. Parmesh Bindal

**On behalf of the Respondents: -**

1. Sh. S.K. Dewan, Director 'Op', UHBVNL, Panchkula
2. Sh. V.K. Goel, SE/RAU & Tariff, HVPNL, Panchkula

## ORDER

This petition has been filed by M/s Parshadamal Mukandi Lal, Rice Sheller, Village – Nasirpur, Hisar Road, Ambala City, seeking direction to the respondents to allow temporary disconnection of his premises (Account No MP – 59) under ‘Force Majure’ condition covered by Sales Circular No. 14/93 & 4/2001.

**1** The petitioner has stated that: -

**1.1** He applied to the SDO ‘OP’ Sub Division (East), Ambala City, for temporary disconnection under ‘Force Majure’ conditions covered by Sales Circular No. 14/93 & 4/2001. SDO ‘OP’ Sub Division (East), Ambala City recommended the application to XEN ‘OP’ Division Ambala, who, after visiting the site, also recommended the case to the S. E. ‘OP’ Circle, Ambala. S. E. ‘OP’ Circle, Ambala forwarded the case to the Chief Engineer ‘Operation’ UHBVNL, Panchkula with the recommendations/ comments that the consumer, being a seasonal industry, is facing problem of seepage because of rise in level of sub-soil water, caused by the passage of Panjokhera minor through the factory premises and also disposal of the flood, storm and sewerage water of Session Court drain and Singhawala drain on open land adjacent to the rice sheller of the consumer. Such a situation certainly falls within the ambit of ‘Force Majure’ Conditions. The effect of the seepage remains throughout the year as the water remains logged in the land adjacent to the rice sheller. Thus it is impossible to lift the paddy for the drier plant as well as to the paddy milling/shelling plant when there is water standing in the tunnels. This situation remains almost throughout the year. In rainy season, whether in summer or winter, the position aggravates as level of the water in the bins/haudis increases upto 2 feet.

**1.2** He submitted following documents in support of his contention stated in para 1.1 above: -

- I Memo No. SPL/3/TA dated 01.03.04 issued by Hydrologist, Ground Water Cell, Agriculture Department, Ambala.
- II Memo No. 100-101/1-P dated 06.05.03 issued by S.D.O. Panjokhera W/S sub-division, Ambala.
- III Certificate dated 07.12.02 issued by Sh. Didar Singh Garg, Architect, Ambala City.

**1.3** Documents, stated in para 1.2 above, show that the water remains logged throughout the year on open land in the vicinity of his rice sheller, resulting into

rise in sub soil water level, causing seepage and ceiling effect in his premises as the concerned Government Authorities have failed to take proper steps for disposal of flood, storm and sewerage water etc., passing through nallas flowing from upper reaches of Model Town, Sessions Court, Urban Estate, Housing Board, Manav Chowk and Village Singhawala through Sessions Court/Singhawala drain. Besides this, the recharging of Panjokhera minor, passing through petitioner's rice sheller, is also adding to the problem.

- 1.4** Seepage & Ceiling effects are more dangerous as compared to flood/rains as in that case the flood water may come and go with the passage of time but the effect of seepage and ceiling is continuous through out the year due to rise in sub soil water level because of the reasons stated above. Seepage & Ceiling effects cause huge loss on account of not being able to run the sheller & spending money on the repairs of building, plant and machinery. Even the part of the machinery, installed in the tunnels, is getting rusted.
- 1.5** He fulfilled the requisite condition of 'documentary evidence' laid down in Sales Circular No. 14/93 & 4/2001 by submitting the documents stated at 1.2 above & thus eligible for disconnection of his premises under 'Force Majure' condition mentioned in the ibid circular.

**2.** The respondents stated that: -

**2.1** As per Sales Circular No.14/93 and 4/2001, the following situations fall in ambit of 'Force Majure' condition: -

- I Acts of God e.g. Floods, Tempests, Earthquake, Lightning
- II Acts of Civil and Military Authorities e.g. Wars, Mutiny, Civil Commotion / Disturbances, Riots
- III Fires, Strikes, Lockouts

**Note: -** The disputes between partners, shortage of funds and raw material etc. will not be considered as Force Majeure Condition under this clause.

**2.2** The reasons, submitted by the petitioner for seeking extension of temporary disconnection beyond permissible limit, are not covered under the tariff order passed by HERC. The petitioner admits that the seepage remains throughout the year in the mill and the problem aggravates during rainy/summer/winter season. As such the problem of the petitioner i.e. seepage of water, is of permanent nature and is not covered under 'Force Majure' Condition.

**2.3** Petitioner admitted that seepage problem is of permanent nature due to several factors, beyond his control. The remedial measures are required to be taken by the Govt., the respondents does not come in the picture. Further the factors quoted by the petitioner do not fall in the ambit of 'Force Majure'.

### **3. Commission's view and Order**

After going through the record and hearing the petitioner as well as the respondents on 31.08.2004, the Commission observes as under: -

**3.1** Petitioner affirmed having availed TDCOs twice (from 22.04.02 to 21.10.02 and 22.10.02 to 21.12.02) as per Sales Circular No. 4/2001 during the course of hearing on 31.08.04.

**3.2** Respondents cannot be asked to keep their infrastructure stranded for long periods under TDCO in normal course when the same can be gainfully utilized to cater to the demand of other prospective consumers. However, the petitioner should take up the matter with concerned civil authorities to sort out his problems.

**3.3** Problem of the Petitioner, pertaining to seepage of water, appears to be of permanent nature and does not fall under the scope of 'Force Majure' conditions stated in Sales Circular No. 14/93 & 4/2001.

In view of the above the petition is hereby rejected.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 18.10.2004.

Dated: 18.10.2004

Place: Panchkula

T. R. Dhaka  
Member

S. C. Katyal  
Member

Lt. Col. (Retd.) Raghbir Singh  
Chairman