

**BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION AT
PANCHKULA**

Case No. HERC/P. No. 43 of 2022

Date of Hearing : 25/10/2024

Date of Order : 12/12/2024

IN THE MATTER OF:

Petition under Section 43, 46 and 50 of the Electricity Act, 2003 and Regulation 8 and 9 of the HERC Duty to Supply Electricity on Request, Power to Recover Expenditure incurred in providing Supply and Power to require Security) Regulations, 2016 (“Duty to Supply Regulations”) and Regulation 16 of the HERC Electricity Supply Code Regulations, 2014 (“Supply Code”) read with Section 142 and 146 of the Electricity Act, 2003.

Petitioner

Dakshin Haryana Bijli Vitran Nigam, Vidyut Sadan, Vidyut Nagar, Hisar, Haryana – 125005

Respondent:

M/s Saraswati Kunj, Cooperative Housing Building Society Ltd., Village Wazirabad, Gurugram. Through Managing Director.

Present

On behalf of the Petitioner

1. Sh. Tushar Mathur, Advocate
2. Sh. Tarsem Rana, Associate to Advocate
3. Sh. Shreyas Shridhar, Advocate

On behalf of the Respondent

Sh. Viresh Dahiya, Advocate

QUORUM

**Shri Nand Lal Sharma, Chairman
Shri Mukesh Garg, Member**

ORDER

1. **Background of the Petition:**

That the present petition was filed by Dakshin Haryana Bijli Vitran Nigam, Vidyut Sadan, Vidyut Nagar, Hisar, Haryana – 125005

2. Submissions of the Petitioner are as under:

The Petitioner above named, most respectfully submit as under:

SECTION I: CONSPECTUS OF THE PETITION.

A. Introduction.

2.1 The Petitioner is a State-owned Distribution Company and registered under the Companies Act, 1956, formed under corporatization / restructuring of erstwhile Haryana State Electricity Board (HSEB) and are responsible for the distribution and retail supply of electricity in the South Zone of the State of Haryana. The Petitioner amongst other general consumers of Haryana also cater to the areas developed by the Respondent Developers/Builders in southern part of the State of Haryana.

A.1. Sales Circular no. D-21/2020 – Embargo on Release of New Connections.

2.2 The Petitioner is constrained to file this petition and seek urgent relief(s) mentioned in the succeeding paragraphs to ameliorate the hardships faced by the owners/occupants of premises/units seeking new electricity connection/additional load etc. within projects/areas, where Respondent Developer has not installed adequate electrical infrastructure. The Petitioner faced with the conundrum of inadequate electrical infrastructure within said projects/areas, issued a Sales Circular no. D-21/2020 dated 07.09.2020 *inter alia* putting embargo on release of new connections.

2.3 The individual residents/applicants agitated their grievances before various platforms i.e. District Administration, Public Representative (s) and other grievance redressal forums including National Human Rights Commission as well as PM/CM Office. The issue had been highlighted in various newspapers.

A.2. PRO-55 of 2021 Filed by Petitioner before the Hon'ble Commission agitating the same issue

2.4 Prior to the filing of the present petition, the Petitioner had agitated this issue in PRO-55 of 2021 before the Hon'ble Commission in which all the Delinquent Developers were made parties. Vide order dated 02.02.2022, Hon'ble Commission was pleased to grant immediate relief to the distressed residents of the subject areas/projects developed by the Respondent Developers and permitted the Petitioner to release new electricity connections/additional load on voluntary payment of development charges mentioned in the Petition.

2.5 Pursuant to the Order dated 02.02.2022, DHBVN has already started releasing connections/ additional load for applicants of the subject areas/projects developed by the respondent developer who voluntarily opt to pay development charges.

2.6 Subsequently, it was argued by the Respondents/Delinquent Developers before the Hon'ble Commission that each builder's agreement is to be seen separately with the peculiar facts of the agreement.

- 2.7 Thus, the Hon'ble Commission vide order dated 18.05.2022 directed the Petitioner to file separate petitions regarding inadequacy of infrastructure in respect of each developer with all the relevant details.
- 2.8 Hence, the present Petition is being filed in compliance of the order dated 18.05.2022 passed by the Hon'ble Commission.
- A.3. Relief(s)
- 2.9 Thus, the Petitioner is approaching this Hon'ble Commission with this petition *inter alia* for grant/issuance of:-
- (a) Permit the Petitioner to recover 'Development Charge(s)' as per Annexure P-3 and para 65 to 67 herein below and in terms of the HERC Order dated 02.02.2022 passed in PRO 55 of 2021, from each of the prospective applicant(s) seeking new connections, consumers seeking grant of additional load or no objection (situated within the Projects), subject to adjustment/refund on curing deficiencies by the Respondent or payment of cost thereof (in any of the manner mentioned below), so as to grant immediate respite of granting connections/additional load to applicants/consumers within the Projects.
 - (b) Directions to the Respondent to, forthwith:-
 - (i) cure inadequacies within the above named Projects; or
 - (ii) pay a sum of money either:-
 - (1) in cash deposit equivalent to the cost of curing the aforesaid inadequacies; or
 - (2) by way of bank guarantee(s) of the cost of curing the aforesaid inadequacies to the Petitioner; and
 - (3) by way of transfer of an immovable property duly certified by DTCP to be of encumbrance free and of value equivalent to the cost of curing the aforesaid inadequacies.
 - (c) Ad-interim/interim permission to the Petitioner in terms of the clause (a) above during pendency of this Petition.
- A.4. Formula for Computation of Development Charge(s).
- 2.10 The Petitioner has computed the above Development Charge(s) using the following formula:-
- $$\begin{array}{l} \text{Development} \\ \text{Charge} \\ \text{(in rupees per KW} \\ \text{per applicant/} \\ \text{consumer)} \end{array} = \frac{[\text{Cost of inadequacies of the Project (2019)} \square \text{ total} \\ \text{ultimate load of prospective applicants in the} \\ \text{Project}] \times \text{ultimate load or applied load (which ever} \\ \text{higher) of individual applicant/consumer.}$$
- (* Govt. Taxes /Duties, as applicable will also be levied on the above development charges)
- 2.11 Applying the above formula, proposed Project wise Development Charge(s) computed for the deficient projects having multi point/ individual connections is annexed. These proposed charges would be applicable up to 31.03.2023 and would be enhanced by 10% every financial year thereafter. The new applicants of domestic category may be given an option to deposit proportionate 'development charge(s)' in lump sum or in 12 no. EMI (in case of monthly bills) and 6 no. EMI (in case of bimonthly bills). A rebate of 4% (four per cent) would be allowed to domestic applicants/consumers opting to deposit development charges in lump sum in one go.

The applicants of other than domestic categories would be required to deposit the proportionate development charges in one go before release of their connections as the load of other than DS categories would be quite higher and would require immediate creation of infrastructure to release the same. The above development charges, so deposited by the applicants/consumers would be refunded afterwards subject to recoveries that would be made from defaulting developers. It is also worthwhile to mention here that inadequacy of infrastructure exist viz-a-viz the ultimate load requirements.

B. Background.

B.1. The Conundrum of Inadequate Electrical Infrastructure.

2.12 Many of the Developers/ Builders/ Delinquent Developers including the Respondent developers, that have developed projects within the Petitioner's license area, failed to install adequate electrical infrastructure to cater to the load as per the applicable load norms. This situation exists even after sale of units/premises in these projects/colonies.

All of the areas/ projects which constitute the subject matter of this Petition, which suffers from inadequate electrical infrastructure are hereinafter collectively referred to as "Projects".

2.13 The Petitioner has repeatedly called upon the Respondent Developers to install / complete the necessary and required electrical infrastructure and cure deficiencies / inadequacies. Despite thereof, they have completely failed to take any measures / necessary steps to cure deficiencies / inadequacies in their electrical infrastructure.

2.14 After sale of plots / dwelling units in the Projects, these areas are being currently maintained by concerned RWA / local residents.

B.2. Judicial Proceedings and Precedents on Inadequacy of Electrical Infrastructure.

2.15 In the aforesaid context, it is noteworthy that directions have been passed by this Hon'ble Commission to Ansal Build Well to cure the inadequacies in its Order dated 20.02.2015 passed in Case No. *HERC/PRO- 21 & 23 of 2013* titled as *Ansal Build Well v. DHBVN & Ors.* Despite this, Ansal Build Well has failed to install adequate electrical infrastructure. Ansal Build Well has challenged the said Order dated 20.02.2015 before the Hon'ble High Court of Punjab and Haryana in CWP No.6460/2015 and 6452/2015, which is pending adjudication. However, no stay has been granted by the Hon'ble High Court on the said Order.

2.16 Another writ petition CWP No.22637/2014, *Sheetal International Pvt. Ltd. V. DHBVN &Ors.* is also pending adjudication before the Hon'ble High Court *inter alia* on the issue of inadequacies.

2.17 A similar issue was agitated before the Hon'ble High Court in *Sanjeev Vohra v. Director General Town and Country Planning and Ors.*, CWP No.25276/2016, wherein directions have been issued to DTCP to recover the costs from the colonizer and to deposit it with the Petitioner.

2.18 Recently, this Hon'ble Commission in its Order dated 09.08.2021 passed in *Anandvilas 81 Resident Welfare Association v. DHBVNL, HERC/PRO-48/2020* held that: *'it is obligatory on the part of developer (License holder) to get the electrification plan approved from DISCOM as per ultimate load requirement and deposit the requisite bank guarantee for development of the electrical infrastructure for the licensed area before release of the electrical connection for which compliance is required to be made by M/s Country Wide developers. The petitioner society falls within the licensed area of M/s Country Wide developers and approval of beneficial interest by DTCP does not absolve them from creation of inadequate infrastructure*

and deposit of the requisite bank guarantee by M/s Countrywide developers for which the case is pending for adjudication (i.e. Civil writ Petition no. 15141 of 2019) before the Hon'ble High Court of Punjab and Haryana.”

B.3. Consequence of Inadequate Electrical Infrastructure in Projects.

2.19 Lack of adequate electrical infrastructure has caused serious prejudice to the Petitioner as well as buyers of the premises in Projects, as under:

(a) On one hand, under applicable provisions of the Electricity Act, 2003 read with the Duty to Supply Regulations and Supply Code, the Petitioner, in law, neither release new connections to the buyers of such premises nor sanction additional load to existing consumers owning such premises on account of existing deficiencies in installed electrical infrastructure.

(b) On the other hand, existing consumers of these premises suffer on account of lack of a robust and reliable electrical infrastructure.

Thus, the Petitioner cannot in law take over such deficient infrastructure for maintenance, adversely affecting the quality and reliability of the supply of electricity.

C. Legal and Regulatory Framework on the Issue.

C.1. Electricity Act, 2003

2.20 Section 46 of the Electricity Act, 2003, empowers the State Commission to frame regulations to authorise a distribution licensee to charge from a person requiring a supply of electricity any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply. Electric lines and electric plant are defined in Section 2 (20) and (22) of the Electricity Act, 2003.

C.2. Duty to Supply Regulations.

2.21 Regulation 4.1 of Duty to Supply Regulations empowers DHBVNL to recover expenditure referred to in Section 46 of the Electricity Act, 2003. Regulation 4.6 of the Duty to Supply Regulations further provides for recovery of costs for extension of distribution main and/or its up-gradation up to the point of supply for meeting the demand of a consumer, whether new or existing, and any strengthening/augmentation/up-gradation in the system starting from the feeding substation for giving supply to that consumer.

2.22 Regulation 3.10 read with Regulations 4.1 and 4.12 of the aforesaid regulations *inter alia* empower DHBVN to recover charges for extension of distribution system.

2.23 It emanates from these regulations that liability to bear cost of extending the distribution system etc. shall be borne by an applicant of a connection i.e. either the builder, who developed a project and/or consumer(s) within such projects.

C.3. Supply Code.

2.24 Further, in context of recovery of charges by a licensee, Section 50 of the Electricity Act, 2003 requires that the State Commission shall specify an electricity supply code to provide for recovery of these charges. Pursuant thereto, this Hon'ble Commission has framed the Supply Code. Provisions similar to what have been discussed in the preceding paragraphs, as contained in Duty to Supply Regulations exist in Supply Code.

2.25 Regulation 4.2.3 of the Supply Code provides that the cost of extension of distribution main and its up-gradation up to the point of supply for meeting demand of a consumer, whether new or existing, and any strengthening/augmentation/up-gradation in the system starting from the feeding substation for giving supply to that consumer, shall be payable by the consumer or any collective body of such consumers as per the Regulations framed

by this Hon'ble Commission under Section 46 of the Electricity Act, 2003. This stipulation is exactly same as that of Regulation 4.6 of the Duty to Supply Regulation.

- C.4. Builder's Agreement with DTCP.
- 2.26 Further, as elaborated in the succeeding paras the obligation of the builder/ developer to carry out the electrification work in his area also forms part of the Builder's agreement with DTCP.
- C.5. Single Point Regulations
- 2.27 Second proviso to Regulation 6.1. (a) of Single Point Supply to Employers' Colonies Group Housing Societies, Residential Colonies, Office cum Residential Complexes and Commercial Complexes of Developers, and Industrial Estates/IT Park/SEZ Regulations, 2020 ("Single Point Regulations") provides that if at the time of energization of the system it is noted that the concerned Developer has not executed the complete work as per the electrification plan approved by the licensee, the Developer shall be required to furnish the Bank Guarantee for the balance incomplete work as per regulation 4.12 of Duty to Supply Regulations. The licensee shall not release single point supply Connection or individual connections under Regulation 4.1(b) to the residents/users in such areas without taking requisite Bank Guarantee.
- C.6. The Haryana Development and Regulation of Urban Areas Act, 1975 ("1975 Act") and the Haryana Development and Regulations of Urban Areas Rules, 1976 ("1976 Rules").
- 2.28 M/s Ansal Buildwell have not submitted final Completion Certificate under Rule 16 of 1976 Rules. In fact, none of them have approached DHBVN for issuance of No Objection required for obtaining final Completion Certificate. In this context, it is noteworthy that:-
 - (a) Grant of 'completion certificate' to a developer by the DTCP under the 1975 Act signifies that the development of infrastructure works, including development/installation of electrical infrastructure has been completed by such developer as per the terms of the licence and the agreement entered into with DTCP, and as per the approved plans by the designated authorities.
 - (b) Non-grant of completion certificate by the DTCP signifies that the works in the colony developed by the developer are incomplete and its obligation under HRDUA Act, 1975 as well as the Electricity Act, 2003 and the Regulations framed there under has not been discharged.
 - (c) After completion of all works in a colony and grant of completion certificate by the DTCP, obligation of distribution licensee arises under the Duty to Supply Regulations to take over the electrical infrastructure in the area to maintain the same.
 - (d) DHBVN's Sales Circular No. D- 15/2010 dated 14.12.2010 after approval by the State Government stated that DHBVN will take over the electrical infrastructure in the area being developed by the developers after the same has been upgraded as per the new load norms. Thus, the stage of 'taking over' of the electrical infrastructure of an area by a distribution licensee arises when the entire work in such area is complete and when final completion certificate has been granted by DTCP. A copy of the aforesaid circular dated 14.12.2010 is annexed.
 - (e) However, if electrical infrastructure in an area is incomplete due to non-completion of work by its developer as per the prevalent load norms, the system cannot be taken over by DHBVN. Thus, consequences of such non-completion

of work shall have to be borne by the concerned Respondent and/or the concerned consumers/applicants, more so because no completion certificate has been granted by DTCP.

2.29 Some of these Developers have though taken and submitted part completion certificate, this does not absolve such Developer from obtaining final Completion Certificate and its obligation to complete the required electrical infrastructure to cater to the ultimate load of the area developed as per the applicable Load Norms.

D. Conclusion.

2.30 Thus, the cost of installing adequate electrical infrastructure to cater the ultimate load, shall have to be borne by:-

(a) the Respondent, who has failed to erect adequate electrical infrastructure; and/or

(b) the consumers/applicant within the area(s) developed by the Respondent.

SECTION II: FACTUAL MATRIX – M/S SARASWATI KUNJ

2.31 On 20.09.2013, the Petitioner issued a notice bearing memo no.126533/34 calling upon Saraswati Kunj to furnish cost or bank guarantee on account of inadequate electrical infrastructure in Respondent's projects/colonies. The Petitioner specifically highlighted various provisions of the Electricity Act, 2003, Regulations framed there under and conditions of license issued by the Directorate of Town and Country Planning.

2.32 Particulars of inadequate electrical infrastructure existing with Saraswati Kunj is annexed hereto.

2.33 It is worthwhile to mention here that the demands of curing the inadequacy/BG in lieu thereof as mentioned in the notices issued by DHBVN in 2013 and by the DTCP in 2015 as per the foregoing paragraphs is based on the cost of inadequacy prevailing at that time. However, a Committee of Nigam's officers was constituted in 2019 to reassess the cost of inadequacies due to revision in load norms in 2017 as per Sale Circular D-16/2017 and accordingly the benefit of reduction in load norms has been extended to the aforesaid developers. Moreover, some of the developers have installed/created partial infrastructure in the intervening period. Due to these reasons, the costs of inadequacy have been reduced from 976.75 crores in 2013 to 317.96 crores in 2019 relating to 16 no. Builders.

2.34 Thus, immediate, and urgent directions are necessary to be issued by this Hon'ble Commission, to resolve this acute problem of existing deficient electrical infrastructure in the interests of all stake holders. Accordingly, this petition is being filed before this Hon'ble Commission.

2.35 It is submitted that the Respondent developer, for the reasons mentioned in the succeeding paragraphs are liable to cure these deficiencies.

SECTION III: LEGAL AND REGULATORY FRAMEWORK.

E. Obligation on Respondent Developers and Consumers to install adequate Electrical Infrastructure.

2.36 Developers are obliged in law as well as contractually (see bilateral agreement between DTCP and the concerned Developer) to install such electrical infrastructure as may be adequate to cater the 'ultimate load' within the area developed by them. However, most of these Developers despite repeated persistence by DHBVN have failed to cure the inadequacies. If these Delinquent Developers do not install such adequate electrical infrastructure, the cost thereof shall have to be borne by the consumers within the Projects developed by such developers. This position is emanating from interaction of the following laws:-

- (a) The Haryana Development and Regulation of Urban Areas Act, 1975 (“1975 Act”) and the Haryana Development and Regulations of Urban Areas Rules, 1976 (“1976 Rules”);
- (b) Electricity Act, 2003;
- (c) Duty to Supply Regulations;
- (d) Supply Code; and
- (e) Single Point Supply Regulations.

E.1. 1975 Act and 1976 Rules.

2.37 Respondent has submitted final Completion Certificate under Rule 16 of 1976 Rules. In fact, none of them have approached DHBVN for issuance of No Objection required for obtaining final Completion Certificate. In this context, it is noteworthy that:-

- (a) Grant of ‘completion certificate’ to a developer by the DTCP under the 1975 Act signifies that the development of infrastructure works, including development/installation of electrical infrastructure has been completed by such developer as per the terms of the licence and the agreement entered into with DTCP, and as per the approved plans by the designated authorities.
- (b) Non-grant of completion certificate by the DTCP signifies that the works in the colony developed by the developer are incomplete and its obligation under HRDUA Act, 1975 as well as the Electricity Act, 2003 and the Regulations framed thereunder has not been discharged.
- (c) After completion of all works in a colony and grant of completion certificate by the DTCP, obligation of distribution licensee arises under the Duty to Supply Regulations to take over the electrical infrastructure in the area to maintain the same.
- (d) DHBVN’s Sales Circular No. D- 15/2010 dated 14.12.2010 after approval by the State Government stated that DHBVN will take over the electrical infrastructure in the area being developed by the developers after the same has been upgraded as per the new load norms. Thus, the stage of ‘taking over’ of the electrical infrastructure of an area by a distribution licensee arises when the entire work in such area is complete and when final completion certificate has been granted by DTCP.
- (e) However, if electrical infrastructure in an area is incomplete due to non-completion of work by its developer as per the prevalent load norms, the system cannot be taken over by DHBVN. Thus, consequences of such non-completion of work shall have to be borne by the Respondent, more so because no completion certificate has been granted by DTCP.
- (f) Under Electricity Act, 2003, an electricity connection under S. 43 can only be provided when infrastructure required for supply of electricity is adequate to cater to the load of such consumer. Pertinently, proviso to S. 43 (1) of the Electricity Act, 2003 provides that where such supply requires extension of distribution mains, or commissioning of new sub-stations, the distribution licensee shall supply electricity to such premises only after such extension or commissioning is made. Thus, if the infrastructure required as per the peak load requirement of an area is inadequate and DHBVN releases new connections and provide electricity, provisions of the Electricity Act, 2003 and underlying objective thereof shall be rendered otiose.

2.38 Although some of these Developers have taken and submitted part completion certificate, but this does not absolve the concerned Developer from obtaining final

Completion Certificate and its obligation to complete the required electrical infrastructure to cater to the ultimate load of the area developed as per the applicable Load Norms.

E.2 Benefit of Revision in Load Norms.

2.39 In the meantime, Load Norms have been revised from time to time and accordingly inadequacies in electrical infrastructure installed by these Delinquent Developers in their projects have been assessed. Benefits of revised Load Norms have been consistently given to these Developers. Thus, the assessed cost of curing these inadequacies has come down from Rs.976.75 Crores (in 2013) to Rs.317.96 Crores in (2019).

E.3. Judicial Precedents.

2.40 The above approach adopted by DHBVN has found resonance in HERC's Order dated 20.02.2015 passed in Case No. *HERC/PRO- 21 & 23 of 2013* titled as *Ansal Build Well v. DHBVN &Ors.* HERC, while passing the said Order framed a specific issue - "*Whether the electrical layout plan and the electrical infrastructure approved for a colony of a developer/colonizer will require revision if during the course of development by the developer/agency, the norms of calculating ultimate load are revised?*". While answering this issue, HERC *inter alia* analysed the provisions of Electricity Act, 2003, and HERC (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to require security) Regulations, 2005 as well as the license granted by DTCP held that:-

"the developer is required to install the electrical infrastructure determined as per electrical layout plan approved by the Distribution Licensee in accordance with the applicable load norms during the course of development of the colony/Group Housing Societies/residential/non-residential areas as per terms and conditions of the licence(s) granted by the Director, Town and Country Planning, Haryana and Agreement entered there under as well as the provision of the Single Point Supply Regulations, 2013."

2.41 Ansal Build Well challenged the said Order dated 20.02.2015 before the Hon'ble High Court of Punjab and Haryana in CWP No.6460/2015 and 6452/2015, which are pending adjudication. However, no stay has been granted by the Hon'ble High Court on the said Order.

2.42 Pertinently, Ansal Properties and Infrastructure Ltd. had also filed a writ petition titled as *Ansal Properties and Infrastructure Ltd. v. State of Haryana*, CWP No.2467/2013 *inter alia* challenging its obligation to erect/bear cost of required electrical infrastructure. This writ petition was dismissed as withdrawn by the Hon'ble High Court on 19.07.2017.

2.43 A similar issue was agitated before the Hon'ble High Court in *Sanjeev Vohra v. Director General Town and Country Planning and Ors.*, CWP No.25276/2016. The Hon'ble High Court on 23.09.2019 disposed of the said writ petition with following directions:-

" 7. For the above reasons, the petition is partially allowed and the direction is issued to the Respondent No.2 and 3, whichever of them owes the responsibility to inform the Director General, Town and Country Planning, Haryana in writing to recover the costs from the colonizer and to deposit it with the Nigam's in terms of the agreement dated 29.03.2007. The Power Nigam's will inform Respondent No.1/Director General, Town & Country Planning, Haryana by letter in writing of its decision within 15 days and thereafter, competent authority i.e. the Respondent No.1 will take a final decision as enjoined by law within next one

month sorting out the dispute and immediately thereafter convey the same to the colonizer and the petitioner. ”

2.44 The issue of inadequacy in electrical infrastructure installed by a private developer of Faridabad was recently dealt with by the HERC in Anandvilas 81 Resident Welfare Association v. DHBVNL, HERC/PRO-48/2020. HERC by its Order dated 09.08.2021 disposed of this petition.

2.45 In context of grant of electricity connection in areas where there exist electrical inadequacies this Hon'ble Commission in Case No. HERC/PRO-68/2020, Confederation of Real Estate Developers Association of India – Haryana (Credai-HR) v. DHBVNL held as under:

“8. The Commission has carefully examined the contents of the petition, submissions made, arguments placed before the commission during the hearings. The Commission observes that the provisions of the sales circulars which are in contravention of the provisions of the Regulations causing undue hurdle and oppress the right of any genuine consumers should not be the part of any guideline/sales circulars issued by the Licensee, on the other hand the Act/Regulations also cast duty upon the Licensee to ensure the adequate infrastructure and services to consumer at reasonable cost is provided and to take appropriate measures to deal with defaulting developer/consumer to ensure the recovery of legitimate dues/inadequacy if any in past from such defaulter. A list of 36 developers of only one circle i.e. OP Circle Sonapat submitted by the Respondent, reflecting continuous defaults made by the Developers/ Builders/ Colonizers for the creation of the requisite infrastructure, reveals that the electrical infrastructure had not been created even after the lapse of several years; even the temporary connection which is essentially meant for the limited purpose of undertaking the construction activities has also been used to provide the supply of electricity to regular connections on inhabitants. If the temporary connection is allowed without processing/approved electrification plan, the developer may not be obligated to lay down any electrification infrastructure as seen in the past since the Developers are not coming to create infrastructure even the lapse of 10 to 14 years. Keeping in view of the judgment of Hon'ble Bombay High Court mentioned in para No. 3 above, the electricity connection should not be released to any developer/ colonizer or subsidiary or sister concern/ partnership firm thereof against whom there are outstanding dues to discourage dodgy practices by allowing developer to form a different corporate entity with similar shareholding/ management and get away with the legitimate payment of dues, despite the fact that the usual person behind both the legal entities would be the same. Therefore, the Commission is of considered opinion that the ibid five challenged clauses of the above said Circulars have been added by the Respondents as deterrent with the intent to curtail the defaults by the Developers in the interest of consumers, and to ensure that adequate electrical infrastructure is laid down and time limit so fixed is essential to be implemented to have quality of supply to the residents of the township developed by the Developer. As such Commission finds no merit in the petition.“

E.4. Electricity Act, 2003

2.46 For the purpose of the present analysis, Section 43. (Duty to supply on request), Section 45. (Power to recover charges), Section 46. (Power to recover expenditure) of the Electricity Act, 2003 are relevant.

2.47 Section 46 of the Electricity Act, 2003 empowers State Commission to frame regulations to authorise a distribution licensee to charge from a person requiring

- a supply of electricity any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply
- 2.48 Section 2 (20) of the Electricity Act, 2003 defines electric line to mean “any line which is used for carrying electricity for any purpose and includes’
 (a) any support for any such line, that is to say, any structure, tower, pole or other thing in, on, by or from which any such line is, or may be, supported, carried or suspended; and
 (b) any apparatus connected to any such line for the purpose of carrying electricity;”
- 2.49 Section 2 (22) of the Electricity Act, 2003 defines electrical plant to mean “any plant, equipment, apparatus or appliance or any part thereof used for, or connected with, the generation, transmission, distribution or supply of electricity but does not include-
 (a) an electric line; or
 (b) a meter used for ascertaining the quantity of electricity supplied to any premises; or
 (c) an electrical equipment, apparatus or appliance under the control of a consumer;”
- 2.50 Pursuant to the above and in exercise of its powers under Section 181 of the Electricity Act, 2003, HERC framed Supply Code and Duty to Supply Regulations.
- E.5. Duty to Supply Regulations.
- 2.51 In exercise of powers conferred under sub-section 2 (t, v) of section 181 read with sections 43, 46 & 47 of the Electricity Act, 2003, HERC notified the Duty to Supply Regulations, 2016, as amended from time to time, to enable a Distribution Licensee to recover the expenditure under Regulation 4.
- 2.52 Regulation 4.1 of the aforesaid regulations empowers DHBVNL to recover expenditure referred to in Section 46 of the Electricity Act, 2003.
- 2.53 The other relevant provisions of the Supply Regulations are also relevant.
- 2.54 The aforesaid Regulation 4.12.2 was inserted into Duty to Supply Regulations, 2016 by way of an amendment notified on 19.03.2020. Regulation 4.12.2 as it stood before this amendment read as under:-
*4.12.2: The work relating to electrification of Urban Estates and Group Housing Societies will be executed by the concerned department / colonizer / societies after the Licensee approves the electrification plan and estimates, prepared on the basis of standard cost data book, for such plans and the applicant shall pay supervision charges to the Licensee in accordance with Regulation 4.9.1. At the time of energisation of the system, the Licensee shall ensure that the system has been laid as per the approved electrification plan. The consumer applying for connection in such area shall not pay service connection charges to the licensee as long as his load is within the parameters of the sanctioned plan.
 Provided that if at the time of energisation of the system it is noted that the concerned department / colonizer/ society has not executed the complete electrification work as per the electrification plan approved by the licensee, the colonizer/ developer shall be required to furnish the Bank Guarantee equivalent to 1.5 times of the estimated cost of the balance work to be executed as per the approved plan. The licensee shall not release single point connection or individual connections to the residents of such areas without taking requisite Bank Guarantee.”*
- E.6. Supply Code.
- 2.55 In exercise of the powers conferred by Section 50 and clause (x) of sub-section (2) of Section 181 of the Electricity Act, 2003 and all other powers enabling it in this

behalf, the HERC notified the Electricity Supply Code Regulations, 2014 to deal with the procedure for connection, disconnection, reconnection, assessment of load, changes in existing connections including load modifications, change of name and change of tariff category.

2.56 The relevant provisions of the Supply Code are quoted.

E.7. Single Point Supply Regulations

2.57 Second proviso to Regulation 6.1. (a) of Single Point Regulations provides that if at the time of energization of the system it is noted that the concerned Developer has not executed the complete work as per the electrification plan approved by the licensee, the Developer shall be required to furnish the Bank Guarantee for the balance incomplete work as per regulation 4.12 of Duty to Supply Regulations. The licensee shall not release single point supply Connection or individual connections under Regulation 4.1(b) to the residents/users in such areas without taking requisite Bank Guarantee.

E.8. Bilateral Agreement between Director General, Town and Country Planning, Haryana, (DTCP) and Builders.

2.58 Pertinently the Bilateral Agreements signed by the builders/ colonizers with DTCP at the time of grant of license also mandates a condition that the builders are required to arrange electric connection for the area developed by them. The relevant condition of the bilateral agreement reads as under:

2.59 Thus, it emanates that the obligation of the builder/ developer to carry out the electrification work in his area also forms part of the Builder's agreement with DTCP.

2.60 However, despite issuance of several demand notices time and again as stated in the preceding paragraphs, the Respondent failed to install adequate electrical infrastructure, thus as violated the aforesaid provisions of the Electricity Act, 2003 read with the regulations above mentioned as well as the their Agreement with DTCP.

F. Liability to bear the Cost of Curing the Inadequacies is of both Developer and Applicants of New Connections/Additional Load etc.

2.61 It emanates from the above regulations that liability to bear cost of extending the distribution system etc. shall be borne by either the builder, who developed a project and/or applicants/consumer(s) within such projects.

Section IV: Need of the Hour to Provide Urgent Relief in light of Notifications issued by the EPCA

2.62 Lack of adequate electrical infrastructure has caused serious prejudice to the Petitioner as well as buyers of the premises in Projects, as under:-

(a) On one hand, under applicable provisions of the Electricity Act, 2003 read with the Duty to Supply Regulations and Supply Code, the Petitioner cannot, in law either release new connections to the buyers of such premises or sanction additional load to existing consumers owning such premises on account of existing deficiencies in installed electrical infrastructure.

(b) On the other hand, existing consumers of these premises suffer on account of lack of a robust and reliable electrical infrastructure.

Thus, the Petitioner cannot in law take over such deficient infrastructure for maintenance, adversely affecting the quality and reliability of the supply of electricity.

2.63 Although, the Hon'ble Commission vide its order dated 02.02.2022 has provided ad-interim relief in form of release of new connections to the applicants on voluntary payment of Development Charges, but as noted by the Commission, the

money due towards inadequacies is to be recovered from the Delinquent Developers and the money received as Development charges has to be adjusted/refunded. The voluntary payment of development charges only provides respite to the consumers with the ability to incur such expenses, the other consumers who are unable to bear such expenses still have to be provided relief.

- 2.64 The issue of inadequacy in infrastructure, attains a sense of urgency particularly on account of use of DG sets and their impact on the health of the environment, especially in colonies / buildings including that of the Respondent where these DG sets have been installed by colonizers / developers, as stop gap arrangement, between installing the required necessary infrastructure and meeting consumer demand on the other. In this context, the following facts are noteworthy:
- (a) Environment Pollution (Prevention and Control) Authority for National Capital Region (“EPCA”) issued Notification No. EPCA-R/2019/L-42 dated 09.10.2019 that banned use of DG Sets last year with effect from 12.10.2019. The said notification was issued by the EPCA considering drop in air quality in the NCR during winters (“2019 Notification”).
 - (b) In 2020, EPCA had again issued Notification No. EPCA-R/2020/L-38 dated 08.10.2020 banning use of DG Sets in Faridabad and Gurugram with effect from 15.10.2020 (“2020 Notification”).
 - (c) The Secretary to Govt. of Haryana, Department of Environment and Climate Change, vide its Memo No. 1/2021 dated 02.12.2021 has inter-alia enforced a complete ban on the operation of all DG sets in NCR districts of Haryana including Gurugram due to which difficulty is being faced by the residents in these area in constructing their houses/residing in already constructed house due to non-availability of electricity connections/power supply.
- 2.65 As mentioned above, though some directions/orders have been passed by this Hon'ble Commission as well as the Hon'ble High Court, the issue of inadequacies in electrical infrastructure has remained unresolved. Considering this aspect of the matter also, addressing the issue of continuing inadequacies in the electrical infrastructure especially in Gurugram, is critical and require urgent and immediate attention.
- 2.66 Thus, the Petitioner has filed this Petition with *bona fides* and in the interest of justice for kind consideration of this Hon'ble Commission.

Section V. The Development Charges

- 2.67 The Petitioner has computed the above Development Charge(s) using the following formula:-

$$\begin{array}{l} \text{Development} \\ \text{Charge} \\ \text{(in rupees per KW} \\ \text{per applicant/} \\ \text{consumer)} \end{array} = \frac{[\text{Cost of inadequacies of the Project (2019)} \square \text{ total} \\ \text{ultimate load of prospective applicants in the} \\ \text{Project}] \times \text{ultimate load or applied load (which ever} \\ \text{higher) of individual applicant/ consumer.}$$

(* Govt. Taxes /Duties, as applicable will also be levied on the above development charges)

- 2.68 Applying the above formula, proposed Project wise Development Charge(s) computed for the deficient projects having multi point/ individual connections have already been annexed hereto and marked as Annexure P-3. It is submitted that the charges are proposed to be applicable up to 31.03.2023 and be enhanced by 10% every financial year thereafter. The new applicants of domestic category

may kindly be given an option to deposit proportionate 'development charge(s)' in lump sum or in 12 no. EMI (in case of monthly bills) and 6 no. EMI (in case of bimonthly bills). A rebate of 4% (four per cent) would be allowed to domestic applicants/consumers opting to deposit development charges in lump sum in one go.

- 2.69 The applicants of other than domestic categories would be required to deposit the proportionate development charges in one go before release of their connections as the load of other than DS categories would be quite higher and would require immediate creation of infrastructure to release the same. The above development charges, so deposited by the applicants/consumers would be refunded afterwards subject to recoveries that would be made from defaulting developers. It is also worthwhile to mention here that there are 32 no. projects of these Delinquent Developers where single point connections have been taken from the Nigam but inadequacy of infrastructure exist viz-a-viz the ultimate load requirements.

Prayer

- 2.70 In view of the above, it is most respectfully prayed that this Hon'ble Commission may be pleased to:-

- (a) Permit the Petitioner to recover 'Development Charge(s)' as per Annexure P-3 and para 65 to 67 of this Petition and in terms of HERC Order dated 02.02.2022 passed in PRO No. 55 of 2021, from each of the prospective applicant(s) seeking new connections, consumers seeking grant of additional load or no objection (situated within the Projects), subject to adjustment/refund on curing deficiencies by the Delinquent Developers or payment of cost thereof (in any of the manner mentioned below), so as to grant immediate respite of granting connections/additional load to applicants/consumers within the Projects in any of the manner mentioned in Annexure P-3, or any other manner as this Hon'ble Commission may deem fit and proper.
- (b) Issue directions to the Delinquent Developers to, forthwith:-
 - (i) cure inadequacies within the above named Projects; or
 - (ii) pay a sum of money either:-
 - (1) in cash deposit equivalent to the cost of curing the aforesaid inadequacies; or
 - (2) by way of bank guarantee(s) equivalent to 1.5 times of the cost of curing the aforesaid inadequacies to the Petitioner; and
 - (3) by way of transfer of an immovable property duly certified by DTCP to be of encumbrance free and of value equivalent to the cost of curing the aforesaid inadequacies.
- (c) Grant ad-interim/interim permission to the Petitioner in terms of the clause (b) above during pendency of this Petition.
- (d) Impose appropriate penalty under Section 142 read with Section 146 of the Electricity Act, 2003 on the Respondent and punish each of the persons in-charge of Respondent's affairs with appropriate imprisonment and/or fine under Section 146 of the Electricity Act, 2003, as this Hon'ble Commission may deem fit; and
- (e) Pass any other order or order(s) as this Hon'ble Commission may deem fit and proper in the facts and circumstances of this case.

3. The case was heard on 07.09.2022, None appeared on behalf of respondent. The Commission directs the petitioner to ensure service of the copy of the

petition to the respondent and the respondent is further directed to file its reply within three weeks.

4. The case was heard on 22.12.2022. None appeared on behalf of the respondent. Sh. Dhruv Sood, counsel for the petitioner submitted that no reply has been filed by the respondent in spite of the direction passed by the Hon'ble Commission in its order dated 14.09.2022 to file the reply within three weeks. The Commission as a last opportunity grants two weeks' time to the respondent to file the reply with an advance copy to the petitioner and directs the petitioner to file the rejoinder within a week thereafter. Further, the petitioner is required to ensure the service of petition to the respondent as per the earlier direction.
5. The case was heard on 08.02.2023. None appeared on behalf of the respondent. The Commission asked the petitioner whether the dasti copy of petition has been served to the respondent in compliance the Commission's interim order dated 02.01.2023. The counsel for petitioner intimated that the copy of petition has been served to the respondent. But the proof of service is not available with her at present. The Commission directed the petitioner to submit the proof of service to the respondent, by 15.02.2023.
6. The case was heard on 16.02.2023. None appeared on behalf of the respondent. The Commission enquired about receipt of dasti summon on the respondent. Ms. Nikita chaoukse, counsel for the petitioner intimated that the copy of petition has been served to the respondent in September,2022 through courier and through email but courier has been received back undelivered. The Commission has taken a serious note that dasti copy of petition has not been served to the respondent though on the last date of hearing, the counsel for the petitioner had intimated that dasti copy of petition has been served to the petitioner. Such a misleading statement is not expected from the counsel. The petitioner requested to grant one-week time to serve the dasti copy of petition to the respondent. Acceding to her request, the Commission as a last opportunity grants one-week time to serve the dasti copy of petition to the respondent and to submit the proof of service.
7. The case was heard on 01.03.2023. None appeared on behalf of the respondent. Sh. Samir Malik, counsel for the petitioner submitted that the dasti copy of the petition has been served to the respondent and also submitted the proof of service in compliance of the Commission's interim order dated 17.02.2023. The Commission as a last opportunity directs the respondent to file its reply within three weeks with an advance copy to the petitioner and the petitioner to file the rejoinder, if any, within one week thereafter.
8. The case was heard on 12.04.2023. As none appeared on behalf of the respondent, therefore the Commission as a last opportunity, directs the respondent to file its reply within two months with an advance copy to the petitioner and the petitioner to file rejoinder, if any, within one week thereafter.
9. The case was heard on 05.07.2023. Sh. Samir Malik, counsel for the petitioner submitted that even after serving the dasti copy of the petition to the respondent, none has appeared from their side. In the present circumstances,

the Commission directs the petitioner to issue a public notice for appearance of respondent for the final arguments to be held on 03.08.2023.

10. The case was heard on 03.08.2023. Sh. Ashok Lamba, Counsel for the petitioner submitted that the public notice was issued on 26.07.2023 as per the last direction of the Commission. The Commission observes that the direction to issue the public notice was given on 05.07.2023 and the same was issued after a delay of three weeks which reflects casual approach on part of the petitioner. Further reasonable time has not been provided by the petitioner in the public notice. The Commission therefore, directs the petitioner to file explanation of the concerned delinquent officers/officials responsible for the delay within one week.

11. **Affidavit of Petitioner-DHBVN dated 09.08.2023**

Petitioner-DHBVN as directed by the Hon'ble Commission vide interim order dated 03.08.2023 submitted following affidavit explaining the delay in issuing the Public Notice.

That on 05.07.2023, the Hon'ble Commission directed us to release a public notice about the final arguments scheduled for 03.08.2023. DHBVN was committed to complying with this order. Regrettably, due to unforeseen circumstances, there was a delay in issuing the public notice, causing inconvenience. DHBVN sought the Hon'ble Commission's forgiveness for this oversight.

That following the order from 05.07.2023, DHBVN sought guidance from the Commission's registry on how to issue the public notice. The registry advised to publish it in two newspapers and upload it on website. The draft public notice from our counsels was received on 17.07.2023, and after management approval, it was uploaded to website on 24.07.2023. Subsequently, it was published in "Dainik Tribune" on 26.07.2023 and in "The Tribune" on 28.07.2023.

DHBVN apologized unconditionally for this delay and requested the Commission's understanding in condoning this error. DHBVN assured to be cautious in the future.

12. The case was heard on 02.11.2023. Sh. Viresh Dahiya, Counsel appearing for the respondent requested for 2 weeks time for submission of their reply. Acceding to his request, the commission adjourned the matter and directed the respondent to file their reply with in 2 weeks and petitioner to file rejoinder, if any, within two weeks thereafter.

13. The case was heard on 13.12.2023. Sh. Viresh Dahiya, Counsel appearing for the respondent requested for 2 weeks time for submission of their reply. Acceding to his request, the commission as last opportunity adjourns the matter and directs the respondent to file their reply with in 2 weeks and petitioner to file rejoinder, if any, within two weeks thereafter.

14. The case was heard on 10.01.2024. Sh. Viresh Dahiya, Counsel appearing for the respondent requested for 2 weeks time for submission of their reply. Acceding to his request, the commission adjourns the matter and directs the respondent to file their reply with in 2 weeks and petitioner to file rejoinder, if any, within two weeks thereafter.

15. The case was heard on 28.02.2024. None appeared on behalf of respondent. The Commission was informed that the respondent vide email dated

27/02/2024 has sought adjournment due to unavoidable family circumstances. The Commission observes that the respondent is seeking time to file reply since last three hearings and has not filed any reply till date. The respondent is not serious in pursuing the case and not complying with the orders of the Commission.

The commission adjourns the matter and directs the respondent to file reply within 2 weeks along with payment of Rs. 25000/-, as a last opportunity with an advance copy to the petitioner.

16. Reply of Respondent 22/03/2024

- 16.1. That without prejudice, the respondent, at the very outset, denies and disputes all statements, imputations and allegations made against it by the petitioner/ complainant in the instant Complaint/ Petition, save and except those which are matters of record or have been specifically admitted hereafter. Subject to the foregoing, the Respondent sets out the following Preliminary Objections and Preliminary Submissions which would clearly establish that the instant petition is not maintainable and the petitioner has concealed and failed to disclose the material facts in the instant petition, disclosure whereof would result in the outright dismissal of the instant petition by the Haryana Electricity Regulatory Commission, Panchkula, Haryana (hereinafter referred to as "Commission").
- 16.2. That the present petition has been maliciously filed at the behest of non-genuine persons who proclaim themselves to be the members of the answering Society, whereas these people have neither membership nor entitlement to the allotment of any plot in the landed colony of the answering Society. This fact is decipherable from the perusal of page-1 of the petition wherein the Society has been impleaded through its Managing Director, whose email address has been mentioned as 'ksinghsandhu9@gmail.com', i.e. one Kalyan Singh Sandhu who is not a member of the answering Society. By getting the present petition filed, this person is wanting to misuse the process of this Hon'ble Commission to get a direction against the answering Society for collecting dues from all illegal occupants/ occupiers of plots in the Society's colony, which order in turn would be used by such illegal occupants/ occupiers to justify their illegal occupation and fortify their claim of genuine membership in the answering Society. Pertinently, the answering Society is governed by the Haryana Cooperative Societies Act, 1983 and is not a company incorporated under the Companies Act, 1956 as amended by Companies Act, 2013 and therefore does not have any Managing Director.
- 16.3. That the instant petition is motivated by the personal agenda of non-genuine persons who are not members of the answering Society and who seek to paralyze the functioning of the answering Society by causing a huge amount of damage to the answering Society and its Members. This mischievous petition has been filed at the behest of the above-named Kalyan Singh Sandhu and therefore, the instant petition ought to be dismissed outright with exemplary costs imposed upon the petitioners.
- 16.4. That the complainant has not specified what specific sections of the Electricity Act are being violated. Therefore, it is clear the prayer in this respect sought by the petitioner cannot be granted and therefore it is clear that the said prayer must be struck off in its entirety and the instant petition ought to be dismissed outright with exemplary costs imposed upon the petitioner.

- 16.5. That the instant petition has been filed by the petitioner with a view to harass the answering Society. Therefore, it is amply clear that the instant petition should be dismissed.
- 16.6. That this petition has been filed to exert pressure on the respondent Society, in order to achieve the nefarious and mala fide intentions of above-mentioned private individual who represents other private individuals who are all non-genuine persons not entitled to membership and consequent plot in the landed colony of the Society. It is clear that the instant petition is an abuse of the process of Court / this Hon'ble Commission as no order can be made in the facts and circumstances of the instant petition. Therefore, it is amply clear that the instant petition should be dismissed.
- 16.7. That the instant petition is not maintainable and is liable to be dismissed for the reason that no cause of action ever arose to file the petition as alleged and if any is it is false, frivolous and fabricated and has been filed illegally, *mala fidely* and with the dishonest intention of creating undue pressure on the answering Society. In view of the same, it is humbly submitted that the instant proceedings ought to be dismissed outright.
- 16.8. That an amount of Rs. 348.59 lakhs (Rs. Three Crores Forty Eight Lakhs and Fifty Nine Thousand only) has already been paid by the members of the Society and other occupants to petitioner DHBVN and the remaining dues shall be cleared after aggregating those from the members of the Society immediately upon the decision of CWP No. 11924 of 2019 pending before the Hon'ble Punjab and Haryana High Court.

PRELIMINARY OBJECTIONS:

- 16.9. That the instant petition filed by the petitioner is not a bonafide action and hence liable to be dismissed by the Commission. The instant petition is not maintainable in law as well as in the prevailing facts and circumstances. Therefore, the instant petition ought to be dismissed outright with exemplary costs imposed upon the petitioner.
- 16.10. That the petitioner does not have any valid cause of action for filing the present petition and is not entitled to any relief whatsoever. Therefore, the instant petition ought to be dismissed outright with exemplary costs imposed upon the petitioner.
- 16.11. That the issuance of membership and genuineness of membership of the answering respondent was being looked into by the State Government appointed Committee of enquiry headed by Sh. S.P. Sharma, IAS (Retd.) which had been appointed through notification dated 06.06.2016, the copy of which is annexed. This Committee submitted its initial report dated 05.08.2017, recommending therein the names of genuine members and discarding names of other persons, who were consequently found to be non-genuine persons. The copy of this initial report dated 05.08.2017 is annexed. Thereafter, the State Government again nominated this Committee to invite objections against its initial report (Annexure R-1/2), which objections were duly invited and thereafter the final report dated 28.06.2018 was sent forth, whereby again names of genuine members and names of non-genuine persons who would not be entitled to any plot in the landed colony of the Society were mentioned. This final report dated 28.06.2018 is annexed. It would be pertinent to mention at this stage that the constitution of this Committee and both the reports submitted by it are under challenge before the Hon'ble High Court in CWP No. 11924 of 2019 titled as Satbir Singh Sandhu and others Versus State of Haryana and others, wherein the Hon'ble High Court has passed an order dated 08.05.2019, in which the concluding line reads as under:-

"Any further action shall be taken subject to outcome of the writ petition."

The copy of this order dated 08.05.2019 is appended. Accordingly as on date the genuineness and non-genuineness of persons entitled to owned a plot in the residential colony of the Society is unclear and the matter is subjudice before the Hon'ble High Court, due to which reason the present petition is premature since recovery, if any, can only be effected from the genuine members.

- 16.12. That it is worthwhile to mention here that the genuine members of the answering Society who have availed electricity connections from the petitioner DHBVN have already paid an amount of Rs. 348.59 lakhs (Rs. Three Crores Forty Eight Lakhs and Fifty Nine Thousand only) to the petitioner DHBVN and therefore it does not lie in the mouth of petitioner DHBVN that no dues whatsoever have been paid to it towards installation of adequate electrical infrastructure for the electrification of the landed colony of the Society.
- 16.13. That as on date, the licences issued to the answering Society by the Department of Town & Country Planning, Haryana, Chandigarh have not been renewed and their cancellation / non-renewal was communicated through letter dated 19.12.2017, the copy of which is annexed. In furtherance of this communication, the answering Society has already deposited the necessary charges for this renewal and the matter regarding the renewal is pending consideration before the Department of Town & Country Planning, Haryana, Chandigarh. In absence of this licence, the issue of transfer of space for installing electricity sub-station, cannot be considered because such a transfer would violate the provisions of the Haryana Development & Regulation of Urban Areas Act, 1975, wherein a specific bar has been incorporated in Section 7 that without a licence no plot can be transferred in a colony and Section 10 prescribes that contravention of the provisions of this Act would invite punishment which may extend to three years.
- 16.14. That as soon as the issue of genuineness of membership entitling the genuine members to own a plot in the landed colony of the Society is resolved by the Hon'ble High Court, the answering Society would ensure that its genuine members reimburse to the petitioner DHBVN all sums of money as demanded by the petitioner DHBVN for the electrical infrastructure in the landed colony of the Society.
- 16.15. That even otherwise in the meeting dated 30.01.2020 chaired by Sh. Sanjeev Kaushal, IAS, Additional Chief Secretary to Government of Haryana, which was also attended by the Superintending Engineer of the petitioner DHBVN, Gurugram, Agenda No. 8 had specifically been incorporated towards spending of funds on electrical infrastructure, the detailed discussion of which reads as under:-
- "Legal Advisor Sh. K.K. Vinayak apprised that Dakshin Haryana Bijli Vitran Nigam, Gurugram (DHBVN) has demanded approximately Rs. 27 Crores from the Society for developing electrical infrastructure.*
- As the process of mapping of land is under process and unauthorized construction on the land of the Society is also to be demolished. Further, the plots are yet to be allotted to the genuine members as per the priority / seniority list recommended by the Sharma Commission. This matter can be considered at a subsequent stage.*
- Legal Advisor Sh. K.K. Vinayak further submitted that two licences of the Society have been cancelled because the renewal fee amounting to Rs. 46 lakhs (Approx.) including interest @ 18% p.a. as on 08.08.2019 is pending to be paid to the Town & Country Planning Department.*

The Legal Advisor was directed to get a copy of letter issued by Director Town & Country Planning regarding cancellation of licences and DC Gurugram - cum-Chairman of BOAs is directed to find out the deficiencies due to which the renewal fee is pending and how much money is to be paid. This has to be done within a month."

Accordingly, it is not as if the answering Society is not shying away from the monetary obligations due towards petitioner DHBVN, it is gist that due to the matter of genuineness of members who are to be allotted plots remaining inconclusive and subjudice, that these dues are yet to be paid to the petitioner DHBVN.

REPLY ON MERITS:

Section I: Conspectus of the petition:

A. Introduction.

1. That the contents of this para of the petition are a matter of record and do not call for any reply being introductory in nature.

A.1. Sales Circular No. D-21/2020- Embargo on Release of New Connections.

2. That the contents of this para of the petition, in as much as, they talk about Circular No. D-21/2020 dated 07.09.2020 (P-1) are a matter of record and do not call for any reply. Remaining contents of this para of the petition are denied in view of preliminary submissions and preliminary objections mentioned above.

3. That the contents of this para of the petition are denied being false, untrue, incorrect and have only been incorporated to create a make-believe cause of action. Till date, the issue of genuineness of membership in the answering Society and its consequent right to get a plot in the landed colony being developed by the Society are inconclusive and subjudice before the Hon'ble High Court, therefore, the issue of any alleged individual resident/ applicant raising grievances before higher authorities / Commissions is factually and legally impermissible and incorrect.

A.2. PRO-55 of 2021 filed by petitioner before the Hon'ble Commission agitating the same issue.

4. That the contents of this para of the petition, in as much as, they talk about filing of PRO-55 of 2021 before this Hon'ble Commission and order dated 02.02.2022 passed therein are a matter of judicial record and do not call for any reply.

5. That the contents of this para of the petition, in as much as, they talk about release of new connections / additional load are a matter of record and do not call for any reply. It is clarified at this stage, as has also been mentioned in preliminary objections and submissions above that genuine members of the answering Society have already paid an amount of Rs. 348.59 lakhs (Rs. Three Crores Forty Eight Lakhs and Fifty Nine Thousand only) to the petitioner - DHBVN.

6. That the contents of this para of the petition are a matter of judicial record and do not call for any reply.

7. That the contents of this para of the petition are a matter of judicial record and do not call for any reply.

8. That the contents of this para of the petition are a conclusion of the background introduction and do not call for any reply.

A.3. Relief(s)

9. That the contents of this para of the petition are a reproduction of the prayer clause of the petition and do not pertain to the merits of the controversy involved

- and are therefore denied in view of the detailed preliminary submissions and objections above.
- A.4. Formula for Computation of Development Charge(s).
10. That the contents of this para of the petition are the methodology of calculation used by the petitioner and are denied in the absence of explanation to the effect as to how this methodology has been put into practice.
11. That the contents of this para of the petition pertain to calculations reached by the petitioner-DHBVN using the methodology described by it in para 10 of the petition and the reply to the same is to be found in the preliminary submissions and objections above. Till the time, the issue of genuineness of membership and its consequential right to own a plot in the residential colony of the answering Society remains inconclusive and subjudice before the Hon'ble High Court, the answering Society cannot accept this calculation reached by the petitioner - DHBVN, since the amounts involved are eventually to be borne and defrayed by the genuine members of the answering Society. These amounts cannot be affixed onto illegal occupants / non-members of the answering Society since such a situation and order would be misused by such illegal occupants / non-members to justify their continued illegal occupation and would also be used to the detriment of the answering Society by these people who would then state that they have acquired a genuine membership due to recognition granted by the HREC.
- B. Background
- B.1. The Conundrum of Inadequate Electrical Infrastructure.
12. That the contents of this para of the petition are denied being factually and legally incorrect, in as much as, the answering Society functions of a no profit no loss basis, being a Cooperative Society. Such a Cooperative Society cannot be equated with a developer / builder, since there is no profit motive involved. Moreover so, in the landed colony being developed by the answering Society, the issue of genuineness of membership and its consequential right of owning a plot remains inconclusive and subjudice before the Hon'ble High Court, therefore, the contents of this para of the petition are not at all attracted qua the answering Society. The details prepared by the petitioner DHBVN in Annexure P-5 are based on their own assessment, which is to be borne by the genuine members of the answering Society, once the issue of their genuineness is finally determined.
13. That the contents of this para of the petition are adequately answered in the above mentioned preliminary submissions and objections and the matter pertaining to upgradation of electrical infrastructure and any deficiencies and inadequacies therein are being looked into for rectification by the joint administrative efforts of the petitioner DHBVN and the respondent Society.
14. That the contents of this para of the petition are factually incorrect and denied since the sale of plots/ dwelling units in the landed colony developed by the answering Society is incomplete, inconclusive and subjudice before the Hon'ble High Court, therefore, the averment that these areas are being currently maintained by concerned RWA is factually incorrect. Pertinently, this averment fortifies the preliminary submissions made above that the present petition is actuated at the behest of one Kalyan Singh Sandhu whose email address has been mentioned in the memo of parties by the petitioner - DHBVN.
- B.2. Judicial Proceedings and Precedents on Inadequacy of Electrical Infrastructure.
15. That the contents of this para of the petition are a matter of judicial record and do not call for any reply. However, it is specified and clarified at this stage that the

- orders mentioned in this para are on different facts and are therefore only project specific and do not in any which manner bind the rights of the answering Society.
16. That the contents of this para of the petition are a matter of judicial record and do not call for any reply. However, it is specified and clarified at this stage that the orders mentioned in this para are on different facts and are therefore only project specific and do not in any which manner bind the rights of the answering Society.
 17. That the contents of this para of the petition are a matter of judicial record and do not call for any reply. However, it is specified and clarified at this stage that the orders mentioned in this para are on different facts and are therefore only project specific and do not in any which manner bind the rights of the answering Society.
 18. That the contents of this para of the petition are a matter of judicial record and do not call for any reply. However, it is specified and clarified at this stage that the orders mentioned in this para are on different facts and are therefore only project specific and do not in any which manner bind the rights of the answering Society.
- B.3. Consequence of Inadequate Electrical Infrastructure in Projects.
19. That the contents of this para of the petition, which have been bifurcated into two parts i.e. (a) & (b) are being replied as under and it is denied that any prejudice is being caused either to the petitioners or to the genuine members of the answering Society:
 - (a) As stated above, the petitioner DHBVN has already recovered an amount of Rs. 348.59 lakhs (Rs. Three Crores Forty Eight Lakhs and Fifty Nine Thousand only) from the genuine members of the answering Society and other residents and all new connections are released to such genuine members after obtaining from them their payable dues, for which reason no prejudice occurs to either of the parties involved.
 - (b) The genuine members of the answering Society have paid their respective proportionate dues to the petitioner DHBVN and the remaining dues would be borne by the other genuine members as determined by the Hon'ble High Court, which is currently seized of the matter.
- C. Legal and Regulatory Framework on the issue.
- C.1. Electricity Act, 2003.
20. That the contents of this para of the petition are a matter of record being the gist of definition clauses and statutory provisions contained in the Electricity Act, 2003.
- C.2. Duty to Supply Regulations.
21. That the contents of this para of the petition are the gist of regulations formulated in furtherance of the Electricity Act, 2003.
 22. That the contents of this para of the petition are the gist of regulations formulated in furtherance of the Electricity Act, 2003.
 23. That the contents of this para of the petition, in as much as, they talk about fastening of liability, it is submitted that the answering Society is a Cooperative Society functioning on no profit no loss system and therefore cannot be equated with a developer. The charges payable towards petitioner DHBVN have in part been paid to it by the genuine members of the answering Society as mentioned above and the remaining dues would be borne and defrayed by the yet to be determined genuine members who would be entitled to own plots in the landed colony developed by the Society.
- C.3. Supply Code.
24. That the contents of this para of the petition are a schema of functioning adopted under the Electricity Act, 2003 and therefore do not call for any reply.

25. That the contents of this para of the petition are also an emphasized methodology through which dues are to be collected by DISCOMS from consumers. As explained above, the issue of genuineness of membership in the answering Society remains inconclusive and therefore the petitioner DHBVN cannot determine who would be a genuine consumer within the landed colony of the answering Society, from whom such dues are to be recovered. Accordingly, at this stage till the time the determination of the genuine membership of the Society has not taken place, the petition is premature. As soon as, the determination of the genuine membership of the Society does takes place, the genuine members would clear the dues payable to petitioner DHBVN.
- C.4. Builder's Agreement with DTCP.
26. That the contents of this para of the petition are in the nature of introduction / explanation and do not touch the merit of the controversy and are therefore denied being inconsequential at this stage.
- C.5. Single Point Regulations.
27. That the contents of this para of the petition are an elaboration of regulations framed in furtherance of Electricity Act, 2003 and do not call for any reply, save the explanation contained in preliminary submissions and objections mentioned above.
- C.6. The Haryana Development and Regulation of Urban Areas Act, 1975 ("1975 Act") and the Haryana Development and Regulations or Urban Areas Rules, 1976 ("1976 Rules").
28. That the contents of this para of the petition are denied for want of knowledge since these pertain to M/s Ansal Buildwell. However, it is specified and clarified at this stage that the contents of this para pertain to project specific shortcomings and do not in any which manner bind the rights of the answering Society.
29. That the contents of this para of the petition are denied being vague, uncertain and more in the nature of a roving and fishing exercise since there is no specific detail or particular which has been mentioned.
- D. Conclusion.
30. That the contents of this para of the petition, in as much as, they talk about the cost of installing adequate electrical infrastructure to be borne by the consumers, this is a matter of record and the answering Society submits that these amount would be borne by its genuine members once the determination thereof has been done by the Hon'ble High Court.
- Section II. Factual Matrix - M/s Saraswati Kunj.
31. That the contents of this para of the petition, in as much as, they talk about memo dated 20.09.2013 bearing no. 126533/34 are a matter of record and do not call for any reply.
32. That the contents of this para of the petition, in as much as, they advert to Annexure P-11, it is specified that the methodology of this computation is uncertain and incomplete and is therefore denied.
33. That the contents of this para of the petition, in as much as, they advert to Annexure P-12, it is specified that the methodology of this computation is uncertain and incomplete and is therefore denied. However, it is clarified that the costs, if any, are to be borne by the genuine members of the answering Society.
34. That the contents of this para of the petition are denied being untrue and incorrect and there is no urgency requiring any urgent direction from this Hon'ble Commission qua the respondent Society since the issue of determination of

genuine members is subjudice before the Hon'ble High Court and the amounts to be paid to the petitioner would be paid by the genuine members.

35. That the contents of this para of the petition are also in the nature of introduction and grounds and do not call for any reply.

Section III. Legal and Regulatory Framework.

E. Obligation on Respondent Developers and Consumers to install adequate Electrical Infrastructure.

36. That the contents of this para of the petition are non-specific, vague, in-cohesive and incoherent and are therefore denied. However it is specified that the costs involved are to be borne by genuine members of the answering Society.

The mention of statute and statutory rules and regulations made in this paragraph of the petition is a matter of record and calls for no denial.

E.1. 1975 Act and 1976 Rules.

37. That the contents of this para of the petition do not pertain to the answering Society since the answering Society has not submitted any final completion certificate under Rule 16 of 1976 Rules and therefore this para along with its sub paras is not specifically related to the answering Society.

38. That the contents of this para of the petition are non-specific, vague, in-cohesive and incoherent and are therefore denied. However it is specified that the costs involved are to be borne by genuine members of the answering Society.

E.2. Benefit of Revision in Load Norms.

39. That the contents of this para of the petition are a matter of record and are borne out from the conjoint reading of Annexure P-11 & P-12, which submission is being made without prejudice to the right of the answering Society to question the correctness of the amount mentioned in both these documents.

E.3. Judicial Precedents.

40. That the contents of this para of the petition are a matter of judicial record and do not call for any reply. However, it is specified and clarified at this stage that the orders mentioned in this para are on different facts and are therefore only project specific and do not in any which manner bind the rights of the answering Society.

41. That the contents of this para of the petition are a matter of judicial record and do not call for any reply. However, it is specified and clarified at this stage that the orders mentioned in this para are on different facts and are therefore only project specific and do not in any which manner bind the rights of the answering Society.

42. That the contents of this para of the petition are a matter of judicial record and do not call for any reply. However, it is specified and clarified at this stage that the orders mentioned in this para are on different facts and are therefore only project specific and do not in any which manner bind the rights of the answering Society.

43. That the contents of this para of the petition are a matter of judicial record and do not call for any reply. However, it is specified and clarified at this stage that the orders mentioned in this para are on different facts and are therefore only project specific and do not in any which manner bind the rights of the answering Society.

44. That the contents of this para of the petition are a matter of judicial record and do not call for any reply. However, it is specified and clarified at this stage that the orders mentioned in this para are on different facts and are therefore only project specific and do not in any which manner bind the rights of the answering Society.

45. That the contents of this para of the petition are a matter of judicial record and do not call for any reply. However, it is specified and clarified at this stage that the orders mentioned in this para are on different facts and are therefore only project specific and do not in any which manner bind the rights of the answering Society.
- E.4. Electricity Act, 2003.
46. That the contents of this para of the petition are a reproduction of statutory provisions contained in Electricity Act, 2003 and are therefore not denied.
47. That the contents of this para of the petition are a gist of Section 46 of the Electricity Act, 2003 and are therefore not denied.
- 48 & 49. That the contents of these paras of the petition contain reproduction of definitions contained in Electricity Act, 2003 and are therefore not denied.
50. That the contents of this para of the petition are a matter of record and do not call for any reply.
- E.5. Duty to Supply Regulations.
51. That the contents of this para of the petition are a conjoint gist of the Electricity Act and supply regulations formulated thereunder and do not call for any reply.
52. That the contents of this para of the petition are reproduction of Regulation 4.1 and do not call for any reply.
53. That the contents of this para of the petition contain reproduction of various supply regulations and do not call for any reply.
54. That the contents of this para of the petition are a reproduction of Regulation 4.12.2 before it was amended and does not call for any reply.
- E.6. Supply Code.
55. That the contents of this para of the petition are a matter of record and do not call for any reply.
56. That the contents of this para of the petition are a reproduction of provisions of the supply code and do not call for any reply.
- E.7. Single Point Supply Regulations.
57. That the contents of this para of the petition contain a gist of Regulation 6.1(a) and are a matter of record. Remaining contents of this para are denied and the respondent Society is not a developer and the charges and costs are to be borne by the yet to be determined genuine members of the answering Society.
- E.8. Bilateral Agreement between Director General, Town and Country Planning, Haryana (DTCP) and Builders.
58. That the contents of this para of the petition are a relatively new development and the position in the case of the answering Society at the time when it was first granted its licence was a little different. The sample Bilateral Agreement (P-13) does not bind the answering Society. The contents of the preliminary submissions and objections above may kindly be read as part and parcel of this para.
59. That the contents of the reply to para 58 be read as part of reply to para 59 of the petition.
60. That the contents of this para of the petition are denied being vague, in-cohesive, incoherent and in the nature of a roving and fishing exercise wherein no specific demand notice or its date has been mentioned.

- F. Liability to bear the Cost of Curing the Inadequacies is of both Developer and Applicants of New connections/ Additional Load etc.
61. That the contents of this para of the petition, in as much as, they talk about the cost of extension of distribution system to be borne by consumers, this is a matter of record and does not call for any reply. It is clarified that as soon as the determination of genuineness of membership pertaining to members of the answering Society takes place, the genuine members would pay the necessary dues to petitioner DHBVN.

Section IV: Need of the Hour to Provide Urgent Relief in light of Notifications issued by the EPCA.

62. That the contents of this para of the petition, which have been bifurcated into two parts i.e. (a) & (b) are being replied as under and it is denied that any prejudice is being caused either to the petitioners or to the genuine members of the answering Society:
- (a) As stated above, the petitioner DHBVN has already recovered an amount of Rs. 348.59 lakhs (Rs. Three Crores Forty Eight Lakhs and Fifty Nine Thousand only) from the genuine members of the answering Society and other residents and all new connections are released to such genuine members after obtaining from them their payable dues, for which reason no prejudice occurs to either of the parties involved.
- (b) The genuine members of the answering Society have paid their respective proportionate dues to the petitioner DHBVN and the remaining dues would be borne by the other genuine members as determined by the Hon'ble High Court, which is currently seized of the matter.
63. That the contents of this para of the petition, in as much as, they refer to order dated 02.02.2022 are a matter of judicial record and do not call for any reply. As stated above, a substantial amount has already been paid to petitioner DHBVN by genuine members of the answering Society and the remaining amount shall be paid by the yet to be determined genuine members, as soon as such determination is made before the Hon'ble High Court.
64. That the contents of this para of the petition are specifically denied since the answering Society is not a developer and has not installed any DG Sets for providing electricity to its genuine members who are residing in the landed colony of the Society by constructing houses therein. Pertinently, the answering Society is a house building society and has only offered plots to its genuine members, wherein no multi-storeyed apartments are in existence or ever to be built. The sub-paras make mention of various notifications issued by statutory regulators, which are a matter of record.
65. That the contents of this para of the petition are denied and it is submitted that the matter pertaining to respondent Society does not require the passing of any immediate direction or order by this Hon'ble Commission.
66. That the contents of this para of the petition are denied being untrue and incorrect and it is submitted that the petition has been filed in connivance with one Kalyan Singh Sandhu whose email address has been mentioned in the memo of parties. Pertinently, the answering Society is governed by the Haryana Cooperative Societies Act, 1983 and is not a company incorporated under the Companies Act, 1956 as amended by Companies Act, 2013 and therefore does not have any Managing Director.

Section V. The Development Charges.

67. That the contents of this para of the petition are the methodology of calculation used by the petitioner and are denied in the absence of explanation to the effect as to how this methodology has been put into practice.

68 & 69. That the contents of these paras of the petition pertain to calculations reached by the petitioner-DHBVN using the methodology described by it in para 67 of the petition and the reply to the same is to be found in the preliminary submissions and objections above. Till the time, the issue of genuineness of membership and its consequential right to own a plot in the residential colony of the answering Society remains inconclusive and subjudice before the Hon'ble High Court, the answering Society cannot accept this calculation reached by the petitioner - DHBVN, since the amounts involved are eventually to be borne and defrayed by the genuine members of the answering Society. These amounts cannot be affixed onto illegal occupants / non-members of the answering Society since such a situation and order would be misused by such illegal occupants / non-members to justify their continued illegal occupation and would also be used to the detriment of the answering Society by these people who would then state that they have acquired a genuine membership due to recognition granted by the HREC.

Prayer Clause:

In light of the above written statement filed on behalf of respondent Society through its Authorized Signatory Sachin Kumar, Authorized vide office note dated 07.09.2021, it is submitted as under:

The prayer clause of the petition is denied in its entirety in view of the foregoing preliminary submissions, preliminary objections and reply on merits and it is submitted that the partial dues payable to petitioner DHBVN have already been paid by the genuine members of the respondent Society and the remaining dues would be paid once the determination of genuineness of membership of the answering Society is made by the Hon'ble High Court after decision in CWP No. 11924 of 2019 by these genuine members. Accordingly, it is prayed that the present petition may kindly be ordered to be dismissed, in the interest of justice, equity and fair play.

17. The case was heard on 27.03.2024. Sh. Shaida Dass, Counsel appearing for the petitioner requested for two weeks' time for submission of rejoinder to reply submitted by the respondent. Acceding to his request, the commission adjourns the matter and directs the petitioner to file rejoinder within 2 weeks with an advance copy to the respondent.

18. **Rejoinder by the Petitioner, DHBVN dated 08/04/2024:**

18.1. The present Rejoinder is being filed on behalf of Dakshin Haryana Bijli Vitran Nigam Limited/ Petitioner ("*DHBVN*"), in response to the Reply filed by Saraswati Kunj Cooperative Housing Building Society Limited /Respondent in the above captioned Petition and all the submissions made in the alternative and without prejudice to each other.

18.2. It is submitted that all the allegations made by the Respondent are denied in totality and the same may be treated as a denial as if it was made in seriatim. Nothing submitted herein shall be deemed to be admitted unless the same has been admitted thereto specifically.

18.3. At the outset, the Petitioner denies all and singular allegations, contentions, and submissions of the Respondent in the captioned Petition that are contrary to or inconsistent with what is stated in the present Rejoinder, except those that are a

matter of record and/or specifically admitted herein. The Petitioner should not be deemed to have admitted any of the allegations, contentions, or submissions of the Respondent unless specifically admitted herein.

- 18.4. The Petitioner reiterates the contents of the Petition in the captioned matter and the same may be treated as part and parcel of the present Rejoinder. The facts as stated in the Petition are not being repeated herein for the sake of brevity.
- 18.5. It is humbly submitted that the Respondent, in its Reply, has erroneously contended that the present Petition has been filed by the Petitioner at the behest of the non-genuine persons who are not the members of the society and the same has been filed to justify the illegal occupation and fortify the claims of the said persons in the society. In this regard, it is submitted that the said contention as raised by the Respondent is incorrect, fallacious and without any basis whatsoever. It is further submitted that the present Petition is being filed in pursuance to this Hon'ble Commission's Order dated 02.02.2022 passed in PRO No. 55 of 2021, wherein this Hon'ble Commission was pleased to grant immediate relief to the distressed residents of the subject areas developed by different builders and permitted the Petitioner to release new connections on voluntary payment of development charges mentioned in the petition. Thereafter, this Hon'ble Commission vide order dated 18.05.2022 directed the Petitioner to file separate petitions in respect of each developer which lead to the filing of the present Petition.
- 18.6. Insofar as the maintainability of the present Petition is concerned, the Petitioner seeks to rely on the extensive submissions made by it in the Petition and is not repeating the same for the sake of brevity.
- 18.7. The Respondent, in paragraph 8 of its Preliminary Submissions, has contended that an amount of Rs. 348.59 Lakhs has already been paid by the members of the Society and other occupants to the Petitioner, and the remaining dues shall be cleared after aggregating those from the members of the society immediately upon the decision in CWP No. 11924 of 2019 pending before the Hon'ble Punjab and Haryana High Court. In this regard, it is submitted that an amount of Rs. 348.59 lakhs have been deposited by the members of the society to avail new connections as per the approval of the competent authority. It is imperative to highlight, that the Bank guarantee and the Development Charges as prayed by the Petitioner in the present Petition are against the inadequate electrical infrastructure in the society developed by the Respondent. Vide the said Bank Guarantee and the Development Charges, the Petitioner aims to rectify the inadequacy in the electrical infrastructure thereby making it capable of catering to the load demand of the residents of the society.
- 18.8. The Respondent, in its Preliminary Objections, has *inter alia* contended that the issue regarding the genuineness and non – genuineness of persons entitled to own a plot in the residential colony of the Society is sub-judice before the Hon'ble High Court of Punjab & Haryana, due to which, the present Petition is premature since recovery, if any, can only be effected from the genuine members. The Respondent further states that genuine members have already paid Rs 348.59 Lakhs to DHBVN. In this regard, it is submitted that the suit referred by the Respondent has no relevance to the present Petition as both have been filed seeking different prayers and between different parties. As stated in the preceding paragraph, it is humbly submitted that the Bank guarantee and the Development Charges as prayed by the Petitioner in the present Petition are against the inadequate

electrical infrastructure in the society developed by the Respondent. Vide the said Bank Guarantee and the Development Charges, the Petitioner aims to rectify the inadequacy in the electrical infrastructure thereby making it capable of catering to the load demand of the residents of the society

18.9. The Respondent, in its Preliminary Objections, has erred in contending that in view of the license not having been renewed in favour of the Respondent till date, the issue of transfer of space for installing an electricity substation cannot be considered because such a transfer would violate the provisions of the Haryana Development & Regulation of Urban Areas Act, 1975. In this regard, it is respectfully submitted that the demand for electricity in Saraswati Kunj is increasing rapidly. In order to fulfill the needs of the residents, it is necessary to install a 33 KV substation that can provide continuous and reliable electrical power. However, in order to erect the substation, adequate space (Land Parcel) is required.

18.10. At the cost of reiteration, it is submitted that the Respondent has miserably failed to develop adequate electrical infrastructure. The details of the total inadequacy as on date in the concerned projects of the Respondent is given herein below:

Amount of Internal Inadequacy (Cr.)	Amount of External Inadequacy	HVPN Share cost of Sub Station to be borne by Builder/ Developer	Total amount of inadequacy	Amount of BG @1.5 times of total amount of inadequacy
16.74	5.96	3.82	26.52	39.78

18.11. In view of the submission, it is respectfully prayed that this Hon'ble Commission may please to allow the present Petition.

19. The case was heard on 07.05.2024. Sh. Shaida Dass, counsel for the petitioner, requested for short adjournment as the arguing counsel is not present due to bereavement of someone in his family. Acceding to request, the Commission adjourns the matter and directs the parties to be present on next date for final arguments.

20. The case was heard on 24.07.2024. Sh. Tushar Mathur counsel for the petitioner submitted he is ready for arguments. Sh. R.D.Gupta counsel appearing on behalf of the respondent, requested for short adjournment as the arguing counsel is not available. Further, he requested to allow conciliation meeting. The Commission observes that the parties are requesting for reconciliation meeting/adjournment just to delay the proceedings and why such meeting was not held earlier after filing of this petition in year 2022. Therefore, the Commission did not accept the request of adjournment by the counsel for respondent and asked the counsels to proceed with arguments. Sh. R.D.Gupta submitted that he is the proxy counsel and is not ready for arguments and again requested for short adjournment. Acceding to request of the counsel for respondent, the Commission adjourns the matter with cost of Rs. 25,000/- on the respondent on account of delaying the matter and directs the parties to be present on next date for final arguments.

21. The case was heard on 19.09.2024. The respondent submitted a document indicating that the cost imposed by the Commission has been deposited in the

Commission on 17/09/2024. Sh. Viresh Dahiya counsel, appearing on behalf of the respondent, argued that the dispute regarding genuine owners of plots in the society is subjudice before the Hon'ble High Court in CWP No. 11924 of 2019 titled as Satbir Singh Sandhu and others Versus State of Haryana and others, wherein the Hon'ble High Court has passed an order dated 08/05/2019 that "Any further action shall be taken subject to outcome of the writ petition." Accordingly, as on date the genuineness of owners of plots in the residential colony of the Society is unclear. The dispute is directly affecting the construction of electrical infrastructure as the co-op society is operating at no profit no loss basis. The expenditure on the electrical infrastructure is to be borne by the plot owners. The society is not denying to cure the inadequacies as per regulations but the same cannot be effected till the identification of the genuine owners. Recovery, if any, for creation of electrical infrastructure can only be made from the genuine members. Sh. Tushar Mathur counsel for the petitioner objected to above submission and submitted that the suit referred by the Respondent has no relevance to the present Petition as both have been filed with different prayers and between different parties. Mr. Mathur further submitted that the respondent is not exempted from any regulation being a co-op housing society and the dispute on the genuine owners of plots is nowhere related to curing of electrical inadequacies of the project. To the query of the Commission about the present status of the project, the counsel for the respondent submitted that the project is spanned on 216 acres of land having 8200 members and over 14000 claimants. The petitioner has already collected Rs. 348.59 Lakh from individual plot owners, who have applied for connections, as charges for creating electrical infrastructure. The Commission observes that the scope of the society and financial status is required for further deliberation in the matter. Therefore, the respondent is directed to submit Rules and Regulations of the society along with the balance sheet and any other relevant document in its support before next date of hearing. Also, the documents with regard to any understanding between the petitioner and the respondents at the time of approval of electrical plan is required to be brought on record by the petitioner. The arguments will continue on the next date of hearing.

22. The case was finally heard on 25/10/2024, as scheduled, in the courtroom of the Commission.

Sh. Viresh Dahiya, appearing on behalf of respondent submitted that the Arguing counsel is suffering from Dengue and requested for adjournment. To the query of the Commission regarding submission of the documents as per last order, it was intimated that the documents are in transit and will be submitted shortly. Taking note of the non-serious attitude of the respondent as none from the respondent-developer of the RWA is present in the court, the Commission directed the parties to submit their written statements within 3 days i.e. up to 29/10/2024. The final order was reserved.

23. No submissions were made by parties within prescribed time limit.

24. **Commission's Analysis & Order**

- 24.1 The Commission has considered the submissions made by the Petitioner in the Petition/Rejoinder, submission made in the reply filed by the Respondent and the pleadings made by both the parties and has also critically examined the entire material/information placed on the record by both the parties.
- 24.2 During the hearing of the case on 19.09.2024 Sh. Viresh Dahiya counsel, appearing on behalf of the respondent, argued that the dispute regarding genuine owners of plots in the society is subjudice before the Hon'ble High Court in CWP No. 11924 of 2019 titled as Satbir Singh Sandhu and others Versus State of Haryana and others, wherein the Hon'ble High Court has passed an order dated 08/05/2019 that "Any further action shall be taken subject to outcome of the writ petition." Accordingly, as on date the genuineness of owners of plots in the residential colony of the Society is unclear. The dispute is directly affecting the construction of electrical infrastructure as the co-op society is operating at no profit no loss basis. The expenditure on the electrical infrastructure is to be borne by the plot owners. The society is not denying to cure the inadequacies as per regulations but the same cannot be effected till the identification of the genuine owners. Recovery, if any, for creation of electrical infrastructure can only be made from the genuine members.

Whereas Sh. Tushar Mathur counsel for the petitioner objected to above submission and submitted that the suit referred by the Respondent has no relevance to the present Petition as both have been filed with different prayers and between different parties. Mr. Mathur further submitted that the respondent is not exempted from any regulation being a co-op housing society and the dispute on the genuine owners of plots is nowhere related to curing of electrical inadequacies of the project. To the query of the Commission about the present status of the project, the counsel for the respondent submitted that the project is spanned on 216 acres of land having 8200 members and over 14000 claimants. The petitioner has already collected Rs. 348.59 Lakh from individual plot owners, who have applied for connections, as charges for creating electrical infrastructure.

The Commission observes that curing of electrical inadequacies of the project is a must for facilitating proper supply to the residents of the area. Therefore, the contention of the respondent not to cure inadequacy till the identification of genuine owners is not appreciable and acceptable.

- 24.3 Further, based on the facts placed before the Commission, the following issues have been analyzed by the Commission

A. Maintainability

The respondent submitted that the instant petition filed by the petitioner is not a bonafide action and hence liable to be dismissed by the Commission. The instant petition is not maintainable in law as well as in

the prevailing facts and circumstances. Therefore, the instant petition ought to be dismissed outright with exemplary costs imposed upon the petitioner. That the petitioner does not have any valid cause of action for filing the present petition and is not entitled to any relief whatsoever. Per contra the petitioner elaborated the Consequence of Inadequate Electrical Infrastructure in Projects in its petition and difficulties being faced by the residents. Further, the Petitioner cannot in law take over such deficient infrastructure for maintenance, adversely affecting the quality and reliability of the supply of electricity.

Analysis of issues of maintainability.

- i. The 2016 Regulations empowers the Commission vide Regulation 8 to issue directions and orders as considered appropriate for implementation of these Regulations. It also empowers the Commission vide Regulation 9 to remove any difficulty which may arise in giving effect to the provisions of the Regulations as under:
“8. POWER TO GIVE DIRECTIONS The commission may from time to time issue direction and orders as considered appropriate for implementation of these Regulations.
9. REMOVAL OF DIFFICULTIES If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may, by general or special order, give the necessary clarification, not being inconsistent or expedient for the purpose of removing difficulties.”
- ii. It is apparent from the bare perusal of Regulation 8 and 9 of 2016 Regulations, that the Commission has the jurisdiction to issue directions as well as remove difficulties for the implementation of the 2016 Regulations.
- iii. Further, Regulation 16 of the Supply Code also provides a “removal of difficulty” clause:
“16. Power to remove difficulties
If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may, by general or special order, give necessary clarifications, not being inconsistent with the Electricity Act, 2003, which appears to the Commission to be necessary or expedient for the purpose of removing difficulties.”
- iv. It is the contention of the Respondent that the Petitioner has failed to identify the difficulty faced in the implementation of the Regulations framed by the Commission. It has been clearly specified in the Petition that due to lack of adequate electrical infrastructure there has been a serious prejudice caused to the petitioner as well as buyers of the premises in Projects. In fact, this Hon’ble Commission while taking cognizance of this difficulty has been pleased to pass interim order in Pro 55 of 2021 to ease the hardship caused to the consumers.

- v. It is the difficulty of the Petitioner that it cannot in law take over the deficient infrastructure for maintenance, adversely affecting the quality and reliability of the supply of electricity. Therefore, the powers to remove difficulty has been rightly pleaded by the Petitioner iterating the difficulty in its obligation to supply electricity to the consumers at large on account of inadequate infrastructure as well the provisions of the Regulation 2016 stated above. Hon'ble Commission has the prerogative and jurisdiction to exercise this power to remove such difficulty. The Hon'ble Supreme Court in *Madera Upendra Sinani vs. Union of India* (1975) 3 SCC 765 recognized the principle:

“40, Again, the “difficulty” contemplated by the clause must be a difficulty arising in giving effect to the provisions of the Act and not difficulty arising aliunde, or an extraneous difficulty. Further, the central government can exercise the power under the clause only to the extent it is necessary for applying or giving effect to the Act etc., and no further”

Even in the case of *Ratnagiri Gas Power Private Limited vs Central Electricity Regulatory Commission* (2011) ELR (APTEL) 532, the Hon'ble Tribunal held that:

“10.3 In our opinion, power to remove difficulties is to be exercised when there is difficulty in effecting the Regulations and not when difficulty is caused due to application of the Regulations. Thus, the exercising power to remove difficulties does not arise in the present case.

10.7. The above regulations and the decision to give the judicial discretion to the Central Commission to relax norms based on the circumstances of the case. However, such a case has to be one of those exceptions to the general rule. There has to be sufficient reason to justify relaxation. It has to be exercised only in exceptional case and where non-exercise of the discretion would cause hardship and injustice to a party or would lead to unjust result. In the case of relaxation of the regulations the reasons have to be recorded in writing. Further, it has to be established by the party that the circumstances are not created due to act of omission or commission attributable to the party claiming the relaxation.”

- vi. In terms of the settled principle of law relating to “removal of difficulty” clauses and their invocation as stated above, the petitioner has thoroughly furnished as to how the lack of adequate infrastructure on account of the Respondent is consonant with the difficulty faced by the Petitioner in performing its duty to supply electricity to the consumers under the Electricity Act and the Regulations reproduced above. The scheme of the Electricity Act, 2003 and the power accorded to this Hon'ble Commission to frame regulations has to be read harmoniously to establish the need for removing difficulty caused by Respondent in giving effect to the Regulations.

- vii. The Regulation 10 and 11 of the Single Point Regulations also stipulates the power of the commission to issue direction and remove difficulties for its implementation as under:

“10. Miscellaneous Subject to the provisions of the Act, and these Regulations, the Commission may, from time to time, issue orders and directions in regard to the implementation of these Regulations and matters incidental or ancillary thereto.

11. Power to remove difficulties If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may, by general or specific order, do or undertake things not being inconsistent with the provisions of the Act which appear to the Commission to be necessary or expedient for the purpose of removing difficulties.”

- viii. A bare perusal of the provisions as enumerated above would reflect that the Commission is empowered to issue appropriate orders/ directions to ensure compliance of the extant regulations.
- ix. Further, the Commission vide its judgement dated 20.02.2015 passed in HERC PRO No. 21 and 23 of 2013 titled as Ansal Buildwell Vs. DHBVNL & ORs (“Order dated 20.02.2015”), held that Ansal Buildwell is liable to cure the electrical inadequacy which is also the facts of present case. It may not be out of place to state that vide this judgement, the Commission rightly exercising its jurisdiction has already adjudicated on the issue of inadequacy that extent as under:

“Issue No. 5 Whether the Respondent can ask for the share cost/Bank Guarantee for the inadequacy in electrical infrastructure in respect of colony being developed by the Petitioner?”

The Petitioner in his submission before the Commission has submitted that the plea taken by Respondent No.1 that the Petitioner would be required to furnish the Bank Guarantees and/or share the cost in the ratio of 75:25 between it and DHBVN is illegal and erroneous, that even reference made to certain policies and/or guidelines, unilaterally at their own end, in that regard, is misconceived, misplaced besides being illegal and without jurisdiction. It has been further submitted by the Petitioner that the said guidelines/policies cannot be made applicable keeping in view the nature of relief being sought for by the Petitioner, more so when the release of load is being sought only to the extent the same has been certified and for which requisite infrastructure has been laid.

On the other hand, the Respondent No. 1 submitted that as per Section 43 of the Electricity Act, a Distribution Licensee is obliged to supply electricity on request. However, Section 45 provides for recovery of charges i.e. energy tariff and Section 46 provides for the recovery of reasonable expenditure incurred in the supply of electricity to a person requiring supply of electricity,

if such supply would require extension of distribution network, commissioning of new substation, electrical line or electrical plant etc.

*The Commission observes that the above submission of the Respondent No. 1 is in-line with the provision with the Electricity Act, 2003 and the Regulations framed by the Commission there under. Further, HERC (Duty to supply Electricity on request and Power to recover expenditure incurred in providing supply and Power to require security) Regulations, 2005 empower the Distribution Licensee to recover the share cost of any augmentation/creation of the feeding capacity for supply of power in line with the Regulations 4.5.2, 4.5.4 and 4.10.4 of bid Regulations. **Thus, there is no illegality on the part of the Distribution Licensee to ask for the share cost for the inadequacy in electrical infrastructure in respect of the colony being developed by the Petitioner***

...

The Commission observes that on the one hand the Petitioner has applied for completion certificate and all development works are being claimed to be complete, whereas on the other hand, it has provided only about 30% of the internal electrical infrastructure and is yet to take action for installation of external electrical works like grid sub-station. Thus, the Commission is inclined to accept the need for the Respondent No. 1 to ask the Petitioners to furnish a Bank Guarantee as a measure of security so that in case the Petitioner do not come forward to create the electrical infrastructure, it would get it done at the cost of Petitioner by invoking the Bank Guarantee.”

- x. Thus, by way of the abovementioned order, the Commission has already settled the principle that it is the bounden obligation of the builders and developers to cure the inadequacy of electrical infrastructure in their projects. The said order has been challenged by the developer vide CWP No. 6460 of 2015 and 6452 of 2016 and the same are pending for adjudication. However, it is noteworthy that there is no stay on this order by the Hon'ble P&H High Court till date. Thus, at present, the order dated 20.02.2015 is occupying the field of law.
- xi. Hence, it is apparent that the Commission has time and again taken cognizance of the issue of builder inadequacy by rightly exercising its powers under the Act as well as the regulations in force.

Hence, the issue of maintainability as agitated by the Respondent has no merit. On the other hand, it is observed that despite such categoric findings of the Commission, the builders/developers or the co-operative societies like the present Respondent quite often fail to adhere to the Regulations as well as the Commission's directions passed in Order dated 20.02.2015. Due to this deliberate non-compliance on the part of the builders, the inadequacy in their Projects persist for years causing undue harassment to the consumers/residents in their Projects. This non-compliance clearly calls for an action within the ambit of Section 142 of the Electricity Act

which empowers the Commission to penalize for contraventions of “any of its order and regulation”.

“Section 142. (Punishment for non-compliance of directions by Appropriate Commission): In case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that any person has contravened any of the provisions of this Act or the rules or regulations made thereunder, or any direction issued by the Commission, the Appropriate Commission may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of penalty, which shall not exceed one lakh rupees for each contravention and in case of a continuing failure with an additional penalty which may extend to six thousand rupees for every day during which the failure continues after contravention of the first such direction.”

B. Embargo on Release of New Connections:

The **Petitioner**, Dakshin Haryana Bijli Vitran Nigam (DHBVN), highlighted the introduction of Sales Circular No. D-21/2020, which imposed an embargo on releasing new electricity connections in areas developed by certain developers due to inadequate electrical infrastructure. The petitioner contended that developers had failed to install infrastructure adequate to cater to the ultimate load requirements of their projects, leaving residents and prospective consumers without necessary connections. The issue was further exacerbated by grievances raised at multiple forums, including the National Human Rights Commission and government offices.

The **Respondent** refuted this claim, arguing that the circular discriminates against cooperative societies like theirs, which operate on a no-profit-no-loss basis. They further claimed that genuine members had already paid substantial amounts toward infrastructure development and should not be penalized for the deficiencies alleged by the petitioner. The respondent also suggested that the embargo unfairly targeted cooperative societies by equating them with profit-driven developers.

In their **Rejoinder**, the petitioner reiterated that cooperative societies are not exempt from compliance with infrastructure norms mandated by law. The embargo was imposed to ensure adherence to provisions of the Electricity Act, which obligates DISCOMs to provide connections only when adequate infrastructure is available. The petitioner emphasized that this measure was a necessity to safeguard the interests of all stakeholders, including consumers.

The **Commission**, acknowledging the criticality of the issue, issued interim directions allowing DHBVN to release temporary connections to residents who voluntarily paid development charges. It also emphasized the need for permanent solutions and directed developers to comply with legal infrastructure obligations (Order dated 02.02.2022).

C. Development Charges (Formula and Application)

The **Petitioner** proposed a formula for computing development charges to recover costs associated with infrastructural deficiencies. This formula, based on the ultimate or applied load of applicants, allowed domestic consumers to pay charges in installments or a lump sum, while non-domestic consumers were required to pay upfront. The petitioner stressed that the development charges were essential to bridge the infrastructure gap and would be refunded once developers rectified the deficiencies.

The **Respondent** challenged the methodology, claiming a lack of transparency in the computation of development charges. They argued that significant payments (Rs. 348.59 lakhs) had already been made by genuine members and further dues would only be paid after resolution of subjudice disputes regarding membership and land ownership. They also questioned the fairness of burdening society members with charges attributable to developer non-compliance.

In their **Rejoinder**, the petitioner justified the formula as consistent with the Haryana Electricity Regulatory Commission (HERC) regulations and the Electricity Act, 2003. They maintained that voluntary payments were a temporary measure to provide relief to consumers, pending recovery from developers. The petitioner reiterated that developers must bear the primary responsibility for curing deficiencies.

The **Commission** directed the petitioner to proceed with collecting charges while ensuring transparency and compliance with legal provisions. It further ordered that the collected charges be refunded or adjusted once the infrastructure deficiencies were addressed (Order dated 02.02.2022).

D. Legal Obligations of Developers and Regulatory Framework

The **Petitioner** underscored the legal obligations of developers to create and maintain adequate electrical infrastructure under the Electricity Act, 2003, the Duty to Supply Regulations, and agreements with the Directorate of Town and Country Planning (DTCP). The petitioner argued that non-compliance by developers hindered DHBVN's ability to fulfill its statutory duty to provide electricity connections. The petitioner pointed out that developers' obligations are binding regardless of internal issues such as member disputes or administrative delays.

The **Respondent** argued that cooperative societies function differently from developers and should not be treated the same. They stated that unresolved membership disputes and pending license renewals were the primary reasons for the delay in fulfilling obligations. The respondent also highlighted ongoing litigation related to these issues, which they claimed precluded any definitive action. Accordingly, it is not as if the answering Society is shying away from the monetary obligations due towards petitioner DHBVN, it is gist that due to the matter of genuineness of members who are to be allotted plots remaining inconclusive and subjudice, that these dues are yet to be paid to the petitioner DHBVN.

In their **Rejoinder**, the petitioner countered that cooperative societies are equally accountable for fulfilling infrastructure requirements. They stressed that delays caused by the respondent had resulted in consumer grievances and a lack of reliable electricity infrastructure. The petitioner urged for immediate action to rectify deficiencies.

The **Commission** reiterated the binding nature of regulatory and contractual obligations on developers and societies. It directed the respondents to comply with these requirements while imposing penalties for repeated delays and non-compliance (Order dated 28.02.2024).

E. Impact of Inadequate Infrastructure on Residents

The **Petitioner** highlighted the severe impact of inadequate electrical infrastructure on residents and applicants. They argued that existing consumers suffered from unreliable electricity supply, while prospective consumers were denied connections altogether. The petitioner also raised environmental concerns, citing excessive reliance on diesel generator (DG) sets in NCR areas, which violated pollution control norms and adversely affected public health.

The **Respondent** denied these allegations, stating that new connections were being provided to genuine members who had paid their dues. They attributed delays in addressing deficiencies to unresolved membership and administrative issues. The respondent argued that they were making efforts to address the deficiencies through collaboration with relevant authorities.

In their **Rejoinder**, the petitioner dismissed these claims as baseless, asserting that the respondent's inaction had directly caused resident grievances and environmental harm. They emphasized that developers must prioritize compliance with environmental and infrastructure norms to mitigate the hardships faced by consumers.

The **Commission** directed respondents to expedite actions for infrastructure development while ensuring compliance with environmental

regulations. It also stressed the importance of addressing resident grievances promptly.

F. Judicial Proceedings and Precedents

The **Petitioner** cited multiple judicial precedents, including *Ansal Buildwell v. DHBVN* and *Anandvilas 81 Resident Welfare Association v. DHBVNL*, where courts and regulatory bodies upheld developers' liability for addressing infrastructure inadequacies. They argued that these rulings reinforced the principle that developers must bear the cost of rectifying deficiencies.

The **Respondent** contended that the cited cases were specific to other projects and did not apply to cooperative societies. They argued that pending litigation related to their society's membership and licensing issues made the petitioner's reliance on these precedents irrelevant.

In their **Rejoinder**, the petitioner countered that the principles established in the cited cases were universally applicable to all developers, including cooperative societies. They emphasized that ongoing disputes should not exempt the respondent from fulfilling its statutory obligations.

The **Commission** acknowledged the relevance of precedents in determining developer liabilities.

G. Inadequacy in Project

As per details of inadequacies as per the extant load norms furnished by the Petitioner vide its pleadings, it is clear that, inadequacy of more than Rs. 26.52 Crores remains against which a Bank Guarantee of Rs. 39.78Cr. is required to be submitted by the respondent till the inadequacy is cured by the respondent.

- 24.4 Based on the above arguments and counter arguments the Commission is of the view that the respondent society cannot be absolved of its responsibility to create adequate electrical infrastructure in the concerned area. The said contention is fortified by the order dated 02.02.2022 passed by the Commission in PRO 55 of 2021, wherein the Commission had directed the Petitioner to refund the development charges to the consumers as and when the Respondent Developer either creates the requisite electrical infrastructure or submits a Bank Guarantee of the said amount.
- 24.5 After going through written as well as oral averments made by both the parties and record placed on the file, the commission observes that since the respondent Cooperative Society has failed to cure inadequacies, the petition is disposed off with following directions to the Respondents:

- a. The inadequacies amounting to Rs. 26.52 Cr. as established by the Petitioner shall be cured by the Respondent within one year of this order.
- b. The monthly progress report of the work on curing of inadequacies will be submitted by the Respondent to the petitioner.
- c. Requisite Bank Guarantee as per regulations shall be furnished by the Respondent to the Petitioner within 30 days.
- d. The Respondent is ordered to pay ₹50,000/- Court Fee deposited by the petitioner along with ₹15,000/- towards litigation expenses to the petitioner within 30 days from the date of this order.
- e. In case the respondent fails to comply with the above-mentioned timeline, the Commission will be constrained to initiate proceedings under Section 142 read with Section 146 of the Electricity Act, 2003 against the defaulters and stringent action shall be taken for such willful and repetitive non-compliance.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 12/12/2024.

Date: 12/12/2024

Place: Panchkula

**(Mukesh Garg)
Member**

**(Nand Lal Sharma)
Chairman**