



HARYANA RIGHT TO SERVICE COMMISSION
S.C.O. No. 38 & 39 (2nd FLOOR), SECTOR 17-A, CHANDIGARH-160017
Website- <https://haryana-rtsc.gov.in/> Telephone: 0172-2711050

No. 5356
To

Dated: 3/12/24

The Managing Director,
DHBVN, Hisar.

The Secretary,
Haryana Electricity Regulatory Commission,
Bays 33-36, Sector 4,
Panchkula-134112 Haryana, INDIA
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Subject:-

1. Revision Details - AAS24/1139096 Name- Sh. J K MASHROOM FARM Service- Application for reduction of Electricity Load [RTS - 21 Day] DHBVN Self Filed by Applicant on Saral Portal (Saral) on 09.08.2024.
2. Revision Details - AAS24/1169672 Name-VIPIN MUSHROOM FARM ServiceApplication for New Electricity connection -LT [RTS - 37 Day] DHBVN Self Filed by Applicant on Saral Portal (Saral) on 02.09.2024.
3. Revision Details - AAS24/1169667 Name-SURENDER MUSHROOM FARM Service- Application for New Electricity connection -LT [RTS - 37 Day] DHBVN Self Filed by Applicant on Saral Portal (Saral) on 02.09.2024
4. Revision Details - AAS24/1169662 Name- VIKAS MUSHROOM FARM ServiceApplication for New Electricity connection -LT [RTS - 37 Day] DHBVN Self Filed by Applicant on Saral Portal (Saral) on 02.09.2024
5. Revision Details - AAS24/1141363 Name- Sh. PRATAP SINGH ServiceApplication for New Electricity connection -LT [RTS - 37 Day] DHBVN Self Filed by Applicant on AAS Portal (Saral) on 02.09.2024.

I am directed to forward herewith a copy of the orders dated 02.12.2024 passed by Sh. T.C. Gupta Chief Commissioner, Haryana Right to Service Commission, Chandigarh in respect of above case for information and compliance. Right to Service Commission, Chandigarh for information and further necessary action.

BY THE ORDER OF THE HARYANA RIGHT TO SERVICE COMMISSION AT CHANDIGARH.

Encl: As above


(Sube Khan)

Under Secretary-cum-Registrar,
Haryana Right to Service Commission
E-mail: rtsc-hry@gov.in

Endst. No. 5357

Dated: 3/12/24

A copy of the above is forwarded the following for information:-

- i. Sh. Vikas Kadian, XEN, DHBVN, Nodal Officer for RTS matters on behalf of DHBVN E-mail: kadianvikas@yahoo.com.
- ii. To all appellants (through AAS)


(Sube Khan)

Under Secretary-cum-Registrar,
Haryana Right to Service Commission
E-mail: rtsc-hry@gov.in



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Final orders

In respect of :- 1. Revision Details - AAS24/1169662 Name- VIKAS MUSHROOM FARM Service- Application for New Electricity connection - LT [RTS - 37 Day] DHBVN Self Filed by Applicant on Saral Portal (Saral) on 02.09.2024

2. Revision Details - AAS24/1169667 Name - SURENDER MUSHROOM FARM Service- Application for New Electricity connection - LT [RTS - 37 Day] DHBVN Self Filed by Applicant on Saral Portal (Saral) on 02.09.2024

3. Revision Details - AAS24/1169672 Name - VIPIN MUSHROOM FARM Service- Application for New Electricity connection - LT [RTS - 37 Day] DHBVN Self Filed by Applicant on Saral Portal (Saral) on 02.09.2024

Interim orders

In respect of :- 1. Revision Details - AAS24/1141363 Name- Sh. PRATAP SINGH Service- Application for New Electricity connection - LT [RTS - 37 Day] DHBVN Self Filed by Applicant on AAS Portal (Saral) on 02.09.2024

2. Revision Details - AAS24/1139096 Name- Sh. J K MASHROOM FARM Service- Application for reduction of Electricity Load [RTS - 21 Day] DHBVN Self Filed by Applicant on Saral Portal (Saral) on 09.08.2024.

These orders are in continuation of the earlier orders of this Commission passed on 04.10.2024, the operative part of which is as follows: -

"The Commission has carefully considered all the facts and circumstances of this case. It is a complex matter where, while the DHBVN authorities claim that all the applied-for connections lie in a single premises, the applicants argue that they constitute different premises within the meaning of the HERC Regulations. According to Circular No. 12/2020, the criteria for granting separate connections are as follows:

- (i) All connections must have separate operative entrances and*
- (ii) There should be separate internal wiring.*

The Commission believes that it is not possible to determine this solely based on the available records and a field inspection is necessary. Therefore, the Commission requests Sh. Vatsal Vashisht, HCS, Secretary of the Commission, to visit the site along with some experts from the HQ of DHBVN and a senior official from the office of the Chief Electrical Inspector, Haryana, to determine the above two issues. The Chief Electrical Inspector, Haryana, is requested to depute an engineer from their office located in either Gurgaon or Faridabad to accompany the Secretary of the Commission during the site visit to ascertain whether there are separate internal wirings. He is requested to provide advance notice to both the appellants and the respondents before the visit and to submit his report afterward. The

Commission will then decide whether the rejection of the applications in this case was justified.

The appellant also raised the issue of being charged an extra amount for downgrading the existing 80 KW HT connection in the name of J.K. Mushroom to 19.90 KW, especially since the service connection charges had already been paid earlier. He further claimed that the cost of the transformer should not be charged when releasing an LT connection. The Chief Engineer (Commercial) is directed to examine this matter and provide clarification whether the demand for these additional charges, beyond the service connection charges, is justified. All relevant papers received in this case are being sent to him and he is requested to submit his opinion by 21.10.2024."

2. A response was received from CE (Commercial) dated 14.10.2024 wherein the following was informed: -
 - i. The earlier connection of 80 KW was classified as HT connection and it was the responsibility of DHBVN to develop and maintain the external electrical infrastructure for HT consumers. Consumer was obligated to install and maintain the transformer corresponding to the load at their own cost.
 - ii. After reduction of load to 19.9KW which now falls under LT category, the obligation to develop the electrical infrastructure shifts to DHBVN. Cost is incurred by the Nigam in converting an existing HT connection to an LT connection, which gets covered under the provisions of cost recovery of the HERC Regulations, 2016, where it has been justified to recover from an applicant, any expense reasonable incurred by the licensee in providing the supply.
 - iii. It has been concluded that the cost demanded by DHBVN is justified as per regulations.
3. In compliance with the Interim orders dated 04.10.2024, the Secretary of the Commission visited the site on 18.10.2024 and submitted an Inspection report on 06.11.2024, the crux of which is as under: -
 - i. The respondents had contended that the revisionist does not qualify for the connection since it lacks separate operative entrances and separate internal wiring as required under point 3.8.1 of the Sales Circular No. 12/2020.
 - ii. The appellant had joined through video call and contended that the wiring has been made separate for each unit with separate entrances. The team had enquired from the respondents as to whether the terms 'separate operative entrances' and 'separate internal wiring' have been defined anywhere to which the response was in the negative.

- iii. It was also observed that some electrical cables were seen extending through a perforation in the wall.
 - iv. Section 3.8.2 of the same circular also notes that in case a tenant requires a separate connection in the same premises, he shall furnish an undertaking from the landlord witnessed by two neighbours stating that they shall clear all the liabilities in case the tenant defaults on payments. The appellant had noted and also supplied to the Commission that undertaking has been given by him to the respondents.
4. The Commission has carefully considered all the facts and circumstances of the case. Regarding the additional charges sought from the appellant for the reduction of load, amounting to approximately Rs. 1.65 lakhs, the Commission observes that the Nigam has shifted its stance from its earlier position, where it relied on letter no. Ch.-64/SE/C/341/2005 dated 17.08.2022 from SE (Commercial), DHBVN, to recover the costs. The current emphasis is now placed on clause 4.13.4 of the HERC Supply Code, 2014, which reads as follows:

“If the licensee sanctions the reduced load he shall issue a demand notice to the consumer indicating the cost and charges to be paid, if any, in accordance with the timeline specified in Regulation 4.4.3 and thereafter both the licensee and applicant shall follow the procedure and timelines as laid down in Regulations 4.4.3(2) to 4.4.6.”

Further, Clause 4.1 of Power to Recover Expenditure of the HERC Regulations, 2016 have been cited which reads: -

“...every distribution licensee is entitled to recover from an applicant requiring a supply of electricity or modification in existing connection, any expenses reasonably incurred by the distribution licensee in providing any electric line or electrical plant used for the purpose of giving that supply. The service connection charges or the actual expenditure to recover such expenses shall be computed in accordance with these Regulations.”

The Commission though in agreement with the rules mentioned above, does not appreciate the Nigam shifting the basis of recovery as per their convenience to suit the needs. The Nigam is entitled to recover additional costs that may be incurred on account of development and maintenance of the required infrastructure but at the same time, it should be reasonably evidenced and in accordance with the regulations. It is informed that calculation of service connection charges/cost of extension of distribution system is computed as per Annexure 1 of the HERC 34/2016 Regulations. As per this, the appellant has already paid around Rs. 1.6 lakhs as service connection charges for his 80 KW connection. However, the said Annexure computes the charges only in case of ‘new connection’ or ‘extension of load’. The said appeal of J.K. Mushroom pertains

to 'reduction of load'. In this particular case, for the HT connection, the appellant had paid for the transformer out of his own pocket and the estimate of Rs. 1.65 lakhs has been framed to account for the electrical infrastructure for his proposed new LT connection. The Commission fails to understand how can the cost for an LT connection be greater than what the appellant was charged for the HT connection? Further, even the Regulations cited by the respondents indicate that such charges are to be imposed '*in accordance with these Regulations*', however, for the reduction of load, it is not specifically mentioned as pointed above.

5. The Commission has thoroughly examined whether the existing load of 80 kW could be bifurcated into four 19.9 kW connections, allowing the appellant to avail benefits of a lower tariff under the FPO scheme. It is noted that the appellant has been forthright in admitting that their intention is to benefit from the FPO scheme and that they meet the conditions prescribed by the Nigam's rules. The issues are highlighted in a pointwise manner below:

- (i) The Government of Haryana intends to diversify the cropping pattern in the State for which it has provided incentives to wean away farmers from the paddy/wheat cropping cycle to other crops or horticulture crops. The FPO scheme is one of them which the appellants want to avail benefit of, for undertaking mushroom farming. The respondents' primary objection is that the appellant seeks to avail benefits of lower tariff under the FPO scheme. However, no rule explicitly prohibits this and in the absence of evidence presented by the respondents, the Commission finds no merit in disallowing the appellant from seeking such benefits. Administrative processes should enable the percolation of benefits within the ambit of the law rather than imposing unnecessary bureaucratic hurdles.

- (ii) The inspection team highlighted that the issue hinges on the terms '*separate operative entrances*' and '*separate internal wiring*'. As these terms are not explicitly defined in any rules, their interpretation is open to the Commission. The inspection team reported that the four chambers seeking connections have separate entrances within a building that has a single entry point within the confines of the premises. Additionally, the internal wiring for these chambers was observed perforating through a hole in the building's wall. However, there is another single entry gate in the premises regulating access to this part of the building.

- (iii) The respondents cited point 3.8 of Sales Circular No. 12/2020 while dismissing the appellant's appeal. However, the Commission notes that point 3.8.2 of the same sales circular states:

“In case a tenant requires a separate connection in the same premises, he shall furnish an undertaking from the landlord duly witnessed by two neighbours stating that the landlord shall clear all the liabilities in case the tenant leaves the premises without paying the distribution licensee’s dues.”

The appellant has already submitted an affidavit fulfilling this requirement. Furthermore, the rules do not specify that clauses 3.8.1 and 3.8.2 must be read in conjunction. Since the appellant satisfies this condition, the Commission finds no logical reason to deny an independent connection. The respondents also objected to the appellants being related and leasing the premises to one another. However, the Commission finds no fault in this, as it is not restricted by any rule.

(iv) The respondents argued that the Nigam should have unhindered access to the meters for reading and inspection. The Commission finds merit in this argument. Under Serial No. 3 of Sales Circular D-18/2014, titled *“Grant of more than one connection in the same premises,”* it is stated:

“The matter was reviewed further and the Nigam decided and circulated vide SC No.

33/2006 that two or more connections under same tariff category would be released under the same premises comprising single or joint ownership provided that existing as

well as new meter shall be got installed by the consumer at the main entrance gate outside the premises/ on the electric pole in water proof meter box”

However, this circular was superseded by Sales Circular D-30/2016, which reproduces clause 3.8 from the 2016 HERC Regulations under the subject *“One connection in one premises.”* The new circular does not specify the placement of the meter. However, point 4.15.3(1) of the HERC Electricity Supply Code, 2014, states:

“Supply shall be given at a single point in the premises of the applicant. The point of supply shall be determined by the licensee such that meter and other equipment are fixed either outside or at the entry point to the premises so that these are always accessible to the licensee for inspection without obstruction and infringing upon the consumer’s privacy. All HT consumers shall ensure independent access to the meter or metering cubical.”

Therefore, the Commission concurs with the respondents’ observation regarding unhindered access to the meters for reading and inspection.

6. The SGRA, while dismissing the appeal of Sh. Pratap Singh (No. AAS24/1141363) on 02.09.2024, noted:

“The FGRA cum Xen/Op Divn, DHBVN, Kosli further submitted that though the appellant have submitted 04 different MSME registration certificates and doing the

same work of mushroom farming in all the 04 cooling chambers but their intention seems to take benefits of lower tariff @Rs 4.75/- per KWH against the HT Industrial category tariff @Rs 6.65/- per KVAH. As such it would be recurring loss to the Nigam and hence his appeal was rejected."

It appears that the Nigam is more concerned with potential revenue loss than with the broader societal benefits that such industries provide. It is imperative for administrative officers to move beyond this narrow perspective and align their actions with the larger goals and intent of the legislation. Rules cannot be interpreted in isolation; they must be read in conjunction with the overarching objectives they aim to achieve. Justice Krishna Iyer famously stated:

"to be literal in meaning is to see the skin and miss the soul"

Applying the golden rule of interpretation, the Commission disagrees with the rationale presented by the Nigam, which dismisses the appellants' case solely due to potential revenue loss while neglecting the true intent behind the intended benefits. The Commission is inclined to adopt a harmonious interpretation of the rules/ Regulations, departing from a rigid, literal approach to ensure consistency with legislative/broader objectives.

The Commission, therefore, directs the following: -

- (i) The Revision nos. AAS24/1169662, AAS24/1169667 & AAS24/1169672 filed by Sh. Vikas, Sh. Surender and Sh. Vipin respectively are hereby allowed. Independent FPO connections are directed to be released to the appellants under the names of Sh. Vikas, Sh. Surender and Sh. Vipin, as per point 3.8.2 of Sales Circular D-12/2020. This is subject to the condition that the meters be relocated closer to the single-entry point of the premises, ensuring unhindered access for the Nigam to conduct meter readings and inspections. The appellants are instructed to shift the meters to the entry gate of the premises and report compliance to the SDO. Subsequently, the SDO is directed to release the connections, provided all other conditions for release are met within 15 days of receipt of this information. The SDO is further directed to submit a compliance report to the Commission through email only, after necessary action has been taken.
- (ii) The Nigam has not categorically specified as to why the domestic connection cannot be released. They have relied on the position taken by the Nigam in respect of the bifurcation of load while deciding the appeal of Sh. Pratap Singh (AAS24/1141363). The domestic connection be released unless there is a specific contravention of the rules. In that case, any such contravention for which this connection cannot be

released, must be communicated to the appellant and the Commission by 16.12.2024 through email only.

- (iii) Regarding the appeal of J.K. Mushroom Farms, which was initially filed for a reduction of load, it is noted that the PDCO in this case was executed for non-compliance with the demand notice. The appellant now seeks to apply for a new FPO connection. This request is to be granted in alignment with the directives under section (i) of this paragraph, provided the specified conditions are met.
- (iv) Haryana Electricity Regulatory Commission (HERC) is requested to provide for the interpretation/clarification of the Regulations as pointed out in para 4 in the case of reduction of load, specifying whether the latest demand notice issued to the appellant is in accordance with the stated HERC Regulations or not. HERC is requested to send the clarification in this regard at its earliest convenience through email at rtsc-hry@gov.in.



02nd December, 2024

(T.C. Gupta)
CC, HRTSC