



National Electric Power Regulatory Authority

NEPRA Tower

Attaturk Avenue (East) Sector G-5/1, Islamabad.

Ph:051-2013200, Fax: 051-2600021

**Consumer Affairs
Department**

TCD 02/ 8480 -2019
September 13, 2019

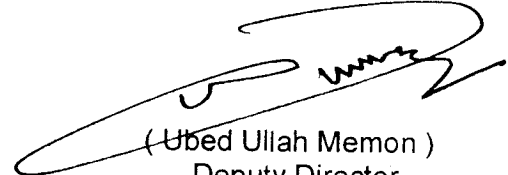
Chief Executive Officer
Islamabad Electric Supply Company (IESCO)
Street No 40, G-7/4
Islamabad.

Mr. Shahid Chanzeb S/o Chanzaib Khan,
Plot No.197, 198, 199, Pakistan Medical Cooperative
Housing Society, E-11/2, Islamabad.

Subject: **ORDER OF NEPRA CONSUMER COMPLAINTS TRIBUNAL IN THE MATTER OF
CASE REFERRED BY ISLAMABAD HIGH COURT, ISLAMABAD IN WRIT PETITION
NOS. 304/2018, 524/2018, 644/2018 & 645/2018**
Complaint # IESCO-13/2017

Enclosed find herewith Order of the NEPRA Consumer Complaints Tribunal under
Section 39 of the NEPRA Act 1997 for information and further necessary action, please.

Encl: **As above**


(Ubed Ullah Memon)
Deputy Director

Copy to:
C.E/Customer Services Director
Islamabad Electric Supply Company (IESCO)
Street No 40, G-7/4, Islamabad.



BEFORE THE
NATIONAL ELECTRIC POWER REGULATORY AUTHORITY
(NEPRA)

Complaint No. IESCO-13/2017

Mr. Shahid Chanzaib

Plot No. 197, 198 & 199

Pakistan Medical Cooperative Housing Society

E-11/2, Islamabad.

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Complainant

VERSUS

Chief Executive Officer

Islamabad Electric Supply Company (IESCO)

Street No. 40, G-7/4

Islamabad.

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Respondent

Date of Hearings:

May 18, 2017

December 15, 2017

June 12, 2019

July 17, 2019

July 30, 2019

On behalf of:

Complainant:

Mr. Riaz Hanif Rahi (Counsel)

Respondent:

- 1). Mr. Sher Abbas, Chief Engineer (P&E), IESCO
- 2). Mr. Shafi Muhammad, Director (Building Construction), CDA
- 3). Mr. Muhammad Naeem Jan, Addl. Manager (P), IESCO
- 4). Mr. Asif Mehmood Sadozai, Addl. S.E (Div-II), IESCO
- 5). Syed Ghazanfar, DD (P&E), IESCO
- 6). Mr. Imam Bukhsh, Addl: DD (P&E), IESCO
- 7). Mr. Babar Mehmood, Addl. XEN, IESCO
- 8). Syed Mohsin Raza Gillani, Addl. XEN, IESCO

Subject:

**ORDER OF NEPRA CONSUMER COMPLAINTS TRIBUNAL IN THE
MATTER OF CASE REFERRED BY ISLAMABAD HIGH COURT,
ISLAMABAD IN WRIT PETITION NOS. 304/2018, 524/2018, 644/2018 &
645/2018**

ORDER

1. Pursuant to the Order of the Honorable Islamabad High Court, Islamabad Bench dated April 26, 2019 in Writ Petition Nos. 304/2018, 524/2018, 644/2018 & 645/2018, this order shall dispose of the complaint of Mr. Shahid Chanzaib (hereinafter referred to as

"the Complainant" or "the Petitioner" against Islamabad Electric Supply Company Limited (hereinafter referred to as IESCO or "the Respondent").

2. The Honorable Islamabad High Court, Islamabad vide its Order dated April 26, 2019 in Writ Petition NOs. 304/2018 (Shahid Chanzaib), 524/2018 (Istekk Hanif), 644/2018 (Abid Hussain) & 645/2018 (Khalid Mehmood) referred the matter to NEPRA for decision. The operative part of the Order is reproduced as under:

"... NEPRA to decide the pending complaint of the petitioners within period of three months through speaking order after giving them due hearing while considering the law on subject. However, till the disposal of said complaint, respondents are restrained to disconnect the electricity supply already provided to the petitioners."

3. Brief facts of the case are that only one of the petitioners namely Mr. Shahid Chanzaib filed a complaint on February 08, 2017 before NEPRA against IESCO. The complainant in his complaint stated that he submitted an application to IESCO for provision of electricity connection through an independent 400 kVA Transformer as the Sponsored Dedicated Distribution System (SDDS). In response, IESCO advised him to submit No Objection Certificate (NOC) from Capital Development Authority (CDA) for further processing of the case. The Complainant requested that IESCO be directed to provide him connection without demanding NOC from CDA. The matter was taken up with IESCO. In response, IESCO vide its letter dated April 18, 2017 submitted that No Objection Certificate (NOC) of Pakistan Medical Cooperative Housing Society, (PMCHS) E-11, Islamabad has been cancelled by CDA, therefore IESCO cannot entertain the complainant's application for provision of electricity connection. IESCO further reported that that Islamabad High Court in Writ Petition (W.P) No. 4841 has restrained IESCO from giving connections if the applicant fails to produce permission/NOC issued by CDA. The said report of IESCO was shared with the complainant vide this office letter dated April 19, 2017. In response, the Petitioner through his Legal Counsel raised observations over the said report and further contended that NOC from CDA is not the requirement of any law and since the Complainant is not a party in the W.P No. 4841, therefore the Order passed in the said W.P in not binding upon the complainant.

4. In order to further proceed into the matter, a hearing was held on May 17, 2017 at NEPRA Head Office, Islamabad, which was attended by both the parties. During the course of hearing, the representative of IESCO reiterated its earlier version and further apprised that a temporary electricity connection under tariff E-1 (2) was sanctioned to the Petitioner in January 2014 and the same is running at site. The complainant further stated that the layout plan of PMCHS was cancelled on April 11, 2016 which is not operative with retrospective effect because the application for connection was submitted to IESCO prior to cancellation of layout plan. Another hearing in the matter was held on December 15, 2017 wherein it revealed that the Complainant has filed writ petition No. 304/2018 before the Islamabad High Court and raised the same issue. Since the issue was pending before the Islamabad High Court, therefore further proceedings in the matter were held in abeyance. Moreover, the Islamabad High Court vide its Orders dated January 31, 2018, February 02, 2018 and April 05, 2019 restrained IESCO from disconnection of electricity supply of the complainant's premises.

5. The Islamabad High Court vide above Order dated April 26, 2019 disposed of the petition and directed NEPRA to decide the pending complaint. In view of the said, hearing of all the relevant parties (i.e. IESCO, CDA & the Complainant) was held on June 12, 2019 which was attended by representatives of IESCO only. In order to provide an opportunity to the complainant and CDA another hearing was scheduled for July 17, 2019, however the same was adjourned on request of Petitioner's counsel. Accordingly, the hearing was rescheduled for July 30, 2019 at NEPRA Head Office, Islamabad which was attended by representatives of IESCO, the complainant whereas once again CDA failed to participate in the scheduled hearing. During the course of hearing, the counsel of complainant reiterated the earlier version. IESCO representatives placed some documents on record which revealed that the Honorable Supreme Court of Pakistan has restrained IESCO from providing connections without issuance of NOC by CDA.

6. The case has been analyzed in detail in light of the documents made so available by the parties, arguments advanced in the hearing(s) and applicable law. Following are the facts of the case:

- i. The layout plan of PMCHS was approved by CDA on May 18, 2012. However, due to some violations the said NOC was cancelled by CDA on April 11, 2016.
- ii. The Petitioner obtained a temporary electricity connection having reference No. 08-14127-1792300 from IESCO on January 16, 2014. The complainant applied to IESCO for permanent connection on August 02, 2016. Accordingly, IESCO vide its letter August 02, 2016 advised the complainant for fulfillment of some prerequisites for provision of connection i.e. approved layout plan, design for external electrification and other relevant documents. Later on, IESCO vide its letter dated September 08, 2016 advised the complainant to provide NOC from CDA for further processing of the case.
- iii. Provision of electricity is a Fundamental Right of all citizens under Article 9 and 14 of the Constitution of Islamic Republic of Pakistan. Non-supply of electricity to a citizen, tantamount to deprivation of this Fundamental Right as well as Article 8 of the Constitution which says that any law, custom or usage having the force of law that is inconsistent or abridges a Fundamental Right is void and inoperable. The provision of electricity has also been interpreted as a Fundamental Right by the Supreme Court of Pakistan.
- iv. NEPRA Consumer Service Manual (CSM) and NEPRA Consumer Eligibility Criteria, 2003 envisage provisions of certain requirements/documents for provision of electricity connection. However, provision of NOC from CDA or any other such department is not required under the ibid documents.
- v. The Islamabad High Court vide its Order dated January 23, 2015 in W.P No. 4841 restrained IESCO and Sui Northern Gas Pipeline Limited (SNGPL) from giving connection till issuance/permission of NOC by CDA.
- vi. The Supreme Court of Pakistan vide its Orders dated April 24, 2017 in Human Rights Case No. 6455-G of 2017 categorically directed IESCO &

SNGPL not to provide electricity and gas connections to any building which has not been sanctioned by the competent authority in accordance with law. The said Orders were also maintained by the Supreme Court of Pakistan vide Orders dated February 13, 2018 in the said Human Rights Case No. 6455-G of 2017.

7. In view of foregoing, according to the NEPRA Rules, Regulations and applicable documents there is no bar in providing connection to any applicant subject to completion of codal formalities. However, since the Honorable Supreme Court of Pakistan has restrained IESCO from providing connection without issuance of NOC by CDA or any competent authority, therefore IESCO may proceed subject to the decision of the Honorable Supreme Court of Pakistan in the said case.



Lashkar Khan Qambrani
Member (Consumer Complaints Tribunal)



Mian Ahmad Ibrahim
Member (Consumer, Complaints Tribunal)


13/09/19

Naweed Illahi Shaikh
Member (Consumer Complaints Tribunal)