



National Electric Power Regulatory Authority
Islamic Republic of Pakistan

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No. NEPRA/ADG(CAD)TCD 01/2461-63

February 15, 2018

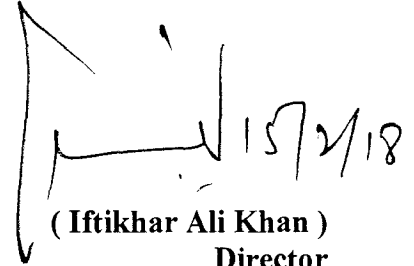
Chief Executive Officer

Peshawar Electric Supply Company (PESCO)
WAPDA House, Sakhi Chashma Shami Road
Peshawar

Subject: **ORDER IN THE MATTER OF COMPLAINT FILED BY MR. HAZRAT HUSSAIN, ASSISTANT DIRECTOR INDUSTRIES/CRP, DISTRICT MARDAN UNDER SECTION 39 OF THE REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST PESCO REGARDING ILLEGAL INSTALLATION OF STONE CRUSHING PLANT**

Enclosed find herewith the Order of Member (Consumer Affairs) regarding the subject matter for necessary action and compliance within thirty (30) days, please.

Encl: As above



(Iftikhar Ali Khan)
Director
Registrar Office

Copy to:

- i. Chief Commercial Officer,
Peshawar Electric Supply Company (PESCO)
WAPDA House, SakhiChashmaShami Road,
Peshawar
- ii. Mr. Hazrat Hussain
Assistant Director Industries/CRP,
Government of Khyber Pakhtunkhwa,
District Mardan



BEFORE THE
NATIONAL ELECTRIC POWER REGULATORY AUTHORITY
(NEPRA)

Complaint No. PESCO-136/08/2017

Mr. Hazrat Hussain **Complainant**
Assistant Director Industries/CRP
Government of Khyber Pakhtunkhwa
District Mardan.

Versus

Peshawar Electric Supply Company Limited (PESCO) **Respondent**
WAPDA House, Sakhi Chasma, Shami Road,
Peshawar

Date of Hearing: 29th November 2017

Date of Decision: February 14, 2018

On behalf of:

Complainant: Nemo

Respondent: 1) Mr. M. Riaz, XEN
2) Mr. Haider Ali, SDO

Subject: **ORDER IN THE MATTER OF COMPLAINT FILED BY MR. HAZRAT HUSSAIN, ASSISTANT DIRECTOR INDUSTRIES/CRP, DISTRICT MARDAN UNDER SECTION 39 OF THE REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST PESCO REGARDING ILLEGAL INSTALLATION OF STONE CRUSHING PLANT**

ORDER

1. This Order shall dispose of the Complaint filed by Mr. Hazrat Hussain (hereinafter referred to as the "**Complainant**") under Section 39 of the Regulation Generation, Transmission and Distribution of Electric Power Act, 1997 (hereinafter referred to as the "**NEPRA Act**") against the Peshawar Electric Supply Company Limited (hereinafter referred to as the "**Respondent**" or "**PESCO**").

2. Brief facts of the case are that in order to ensure that stone crushing activity does not take place outside the purview of law and pursuant to the directions of the Honorable

Supreme Court in suo moto case No. 5 of 2016, the Authority directed all Distribution Companies, including the Respondent vide letter dated 23rd December 2016, as follows:

"All Distribution Companies require approval of relevant Environmental Protection Agencies from projects requiring electricity connection for the purposes of stone crushing"

3. In continuation of the foregoing, NEPRA issued further directions on the subject matter, vide letter No. NEPRA/LA(Leg)/TRF-100/2355-66 dated 17th February 2017, directing as follows:

"Before an electricity connection is approved by the relevant Distribution Companies to persons undertaking stone crushing activity compliance with all applicable laws must be ensured.

Distribution Companies are further directed to ensure that approvals required under law have been sought from relevant agencies, including but not limited to leases, licenses, titles, notices, permissions etc. from the department of Mines and Minerals, Department of Industries - Commerce and Minerals or any relevant local body, agency, Authority or Government Department thereof"

4. In lieu of the foregoing directions, the instant complaint was received by the Authority, vide letter dated 28th August 2017, wherein it was stipulated that PESCO had granted an electricity connection to a stone crushing plant in the name of Mr. Fakhar uz Zaman (hereinafter referred to as the "**Consumer**") at Spinkai Jabbagai, District Mardan, without fulfillment of codal formalities and applicable law.

5. The matter was taken up with PESCO for submission of parawise comments and report on the impugned matter. The documents on record were also forwarded to the concerned departments for verification and feedback. In response, a letter was received from the Office of the Assistant Director Industries/CRP, District Mardan, dated 11th October 2017, wherein the following was surmised:

"In this connection it is pointed out that no NOC has been issued on the name of Mr. Fakhar uz Zaman and that neither the License for stone crushing has been granted on the same name by this office. The NOC and Licence received with your above quoted letter are fake and this office did not verify their authenticity"

6. A further letter was received from AD (Tech) Directorate General Mines and Mineral KPK, dated 22nd November 2017, wherein the following was highlighted:

"In view of the above that the said letter/record of NOC of Mr. Fakhar uz Zaman Khan, Stone Crushing Plant Sawaldher Dara, Mardan checked and not found correct and treated as bogus NOC of this office and stop the NOC for further necessary action at your end please."

7. In order to investigate the matter further, a hearing was held on 29th November 2017. During the hearing, Deputy Manager/XEN (PESCO) stated that electricity connections provided by the Respondent Distribution Company were granted after thorough scrutiny and vetting of required documentation, authorizations, approvals etc. However, in the instant case, the Respondent had failed to determine the authenticity of the falsified documents provided by the Consumer and had proceeded in granting the impugned connection. The Authority directed the Respondent to provide a detailed record of all stone crushing connections granted by PESCO after the issuance of directions vide letter dated 23rd December 2016.

8. The Respondent later provided a report on the connections granted for the purposes of stone crushing after 23rd December 2016, vide letter dated 15th December 2017, in respect of Mardan Circle only. Thereupon, the Respondent was directed vide letter dated 5th January 2018 to provide the required information with respect to connections sanctioned in the service territory of PESCO. In response, the Respondent vide letter dated 18th January 2018 provided the required information whereby a total of forty six (46) connections have been provided to crushing plants in the service territory of PESCO.

9. The case has been examined in detail, in light of the relevant documents, arguments advanced during the hearing and the applicable law. It has been made abundantly clear that the impugned connection granted to the Consumer has been authorized on the basis of falsified documentation. The Consumer does not hold the necessary approvals, required by law, from the Directorate General Mines & Mineral, KPK, Industries & Commerce Department and Environmental Protection Agency that would grant him the right to undertake stone crushing in the relevant area. Moreover, the Consumer has elected to provide falsified and unauthentic documentation to the Respondent in pursuance of receiving electricity connection and undertaking an unauthorized and unlawful activity.

10. In consideration of the foregoing, the Respondent is hereby directed as follows:

- i. PESCO shall disconnect the consumer's electricity connection with immediate effect and initiate appropriate legal action against the same.
- ii. PESCO shall ensure that no future lapse in scrutiny or examination shall occur in applications for grant of electricity connections, particularly in cases where connection is sought for the purpose of stone crushing.
- iii. PESCO shall carry out scrutiny and examination of the record in respect of all the forty six (46) connections and verify the documents submitted for provision of connection.

11. A report shall be submitted by PESCO within thirty (30) days of this order.

Islamabad, February 14 , 2018

Member (Consumer Affairs) 14/2