

**Before the Appellate Tribunal for Electricity**  
(Appellate Jurisdiction)

**Appeal No.4 of 2012 &**  
**I.A. No. 3 of 2012**

**Dated: 1<sup>st</sup> October, 2012**

**Present: Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson**  
**Hon'ble Mr. Rakesh Nath, Technical Member**

**Punjab State Power Corporation Ltd. & Anr. ... Appellant(s)**

**Versus**

**P.S.E.R.C. & Ors. ....Respondent(s)**

**Counsel for the Appellant (s) : Mr. Anand K. Ganesan with**

**Counsel for the Respondent(s): Mr. Sakesh Kumar**  
**for PSERC**  
**Mr. R.S. Joshi for R.2**

**ORDER**

The Consumer-Respondent No.2 had filed a Petition before the State Commission for taking action under Section 142 of the Act and also for quashing the demands raised by the Appellant on account of alleged peak load hour violations by drawing electricity under open access system against the terms and conditions of open access agreements.

The State Commission after hearing the parties held that the Appellant has violated the Regulations and consequently set aside the demands raised by the Appellant and directed the Appellant to refund the amount deposited by the Consumer on peak load violation along with the cost of litigation (Rs. 1,00,000/-, fee paid to the Commission + legal charges borne by the petitioner for that Petition). In addition to that, the State Commission directed the Appellant to recover the said cost paid to the consumer from the concerned officers of the Appellant and to take disciplinary action as against such officers for the lapses.

The learned counsel for the Appellant, though filed an Appeal assailing the entire impugned Order giving the directions, now contends that he is not pressing the Appeal on merits but requests for expunging of the remarks made by the Commission with reference to the directions to the Appellant to recover the said cost from the concerned officers.

On this aspect, we have heard the learned counsel for the Commission and the Respondent No.2-Consumer.

Admittedly, before passing such an Order directing the Appellant to recover the amount of cost from the concerned officers, no opportunity was given to those officers to explain their stand before passing such an Order for recovery from them. Further it is noticed that there is no material to show that the concerned officers conducted themselves with the malafide motive while committing the lapses.

Under those circumstances, it would be appropriate to expunge the last paragraph of the impugned Order, which reads as follows:

***“The PSTCL/PSPCL shall subsequently recover the costs paid to the petitioner from the concerned officers of PSPCL/PSTCL responsible for such lapses and take disciplinary action against the officers responsible for creating this litigation and intimate the Commission after taking action.”***

Therefore, the same is expunged. However, the Appellant is at liberty to take appropriate action as against those concerned officers, if they find that such an action is warranted.

With these observations, this Appeal is disposed of.

**(Rakesh Nath)**  
**Technical Member**

**(Justice M. Karpaga Vinayagam)**  
**Chairperson**

**Ts/vs**