

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

Case No. HERC/P. No. 18 of 2025

Date of Hearing : 10/06/2025

Date of Order : 10/06/2025

IN THE MATTER OF:

Petition in terms of section 43 & 86 of the Electricity Act, 2003, and HERC (Duty to supply electricity on request and power to recover expenditure and power to recover security regulation, 2016 (1st amendment) Regulation, 2020 for setting aside the sales circular bearing no.D-24/2024 issued by the respondent no.2.

Petitioner

1. M/s R. K Industries, through its proprietor Sh. Ravinder Kumar, (license No.2619/2017, 33KV Level), Address: SCO-25, First Floor, Jail Land Complex, Near Sohna Chowk, Gurugram-122001, Haryana.
2. M/s Khushi Electricals, through its proprietor Sh. Suresh Kumar Nehra (License No. 458/22), Address: H.No.2511, Urban Estate, Jind, Haryana.
3. M/s CECUBE Engineering Pvt. Ltd. through its authorized signatory Sh. Sanjay Arora, (License No. H-56/2021), Address: Phase-II, A-96, New Palam Vihar, Gurugram-122017, Haryana.
4. M/s GSM Engineering Co. through its proprietor Sh. Harmeet Kochar, (License No.1723/1999 EHT Level.) Address: Khasra No.6/18, Sukhrali Enclave, Shiv Mandir Road, Gurugram, Haryana.
5. Ankur Electricals, through its proprietor Sh. Rajesh Jain (Licence No.H2081/10, EHT Level), Address: KB- 13 & LB- 16, DLF Qutab Plaza, DLF City, Phase-1, Gurugram-122002, Haryana.
6. M/s VDV Electricals through its proprietor Sh. Vinod Yadav, (License No. H-277/2022) Address: 128, First Floor, Vipul Business Park, Sector 48, Gurugram-122018, Haryana.
7. M/s S.K Electricals, through its proprietor Sh. Mohammad Alam (License No.H-217/2021), Address: 1179/5, Patel Nagar, Sector-15, Gurugram-122001, Haryana.
8. M/s Kamal Electricals through its Proprietor Mr. Kamaljeet License No.H-484/22), Address: Shop No.13, Dangra Road Tohana, Fatehabad-125120, Haryana.

VERSUS

Respondent:

1. State of Haryana through its Additional Chief Secretary, Power Department, Haryana Civil Secretariat, Chandigarh.
2. Dakshin Haryana Bijli Vitran Nigam Limited, Vidyut Nagar, Hisar through its Managing Director.
3. Chief Engineer Commercial, DHBVNL, Vidyut Nagar, Hisar.

Present**On behalf of the Petitioner**

1. Sh. Ashwani Talwar, Advocate
2. Sh. Sumit Aggarwal, Advocate

On behalf of the Respondent

1. Sh. Raheel Kohli, Advocate
2. Sh. Ravinder Singh, XEN, DHBVN

QUORUM

Shri Nand Lal Sharma, Chairman
Shri Mukesh Garg, Member

ORDER**1. Petition:**

- 1.1 That the Governor of Haryana framed Rules titled as 'Haryana Electrical Contractor License, Certificate of Competency and Wireman Permit Rules, 2021', for regulating the terms and conditions for the grant of electrical contractor license, vide notification dated 09.02.2021. The said rules prescribe eligibility and academic qualifications for obtaining certificate, permit and prescribes the validity of certificate and permit and rules relating to renewal or suspension of certificate and permit. Rule 2(1)(i) of the above said rules define the term licence and the same is reproduced below for ready reference: -
"2(1)(i) 'Licence' means 'A' Class Electrical Contractor Licence granted to carry out erection and installation of all type of electrical installation were of various voltage level".
- 1.2 That the petitioners all are 'Class-A' contractors and duly licensed in terms of the gazette notification.
- 1.3 That section 43 of Electricity Act, 2003 as amended up-to-date, Castes a duty upon the distribution licensee (DHBVNL in the instant case) to give supply of electricity at the premises of every owner or occupier of any premises. The Haryana Electricity Regulatory Commission (HERC) framed "Duty to supply Electricity on request and Power to Recover Expenditure and Power to Recover Security Regulations, 2005" on 26.07.2005. These regulations were subsequently amended by 1st amendment on 09.09.2009 and 2nd amendment on 24.09.2013 and accordingly the condition specified the new electricity supply code.
- 1.4 That the HERC thereafter, notified fresh regulations named "Duty to supply Electricity on request and Power to Recover Expenditure and Power to Recover Security Regulation, 2016", vide notification dated 11.07.2016 and this superseded the previously notified Code of 2005 with amendments. Regulation 3 of the freshly notified code is under the heading of "Duty of distribution of licensee to supply on request". Under Regulation 3.10, rules relating to self-execution of work by the applicant have been mentioned, wherein, it is specified that the applicant/prospective consumer can get the work of extension of distribution system carried out on his own and in that case he shall get

the same carried out through a licenced electrical contractor and pay supervision charges to the licensee. The provision along with 1st proviso to the regulation 3.10, which are relevant for the purpose of instant petition are reproduced below for ready reference:

“3.10 Self Execution of work by the applicant.

The applicant can get the work of extension of distribution system carried out on his own. In that case he shall get the same carried out through a Licensed Electrical Contractor and pay supervision charges to the licensee. In such case the consumer himself shall procure the material and equipment. The material and equipment procured shall conform to relevant BIS specifications or its international equivalent and should bear the ISI mark or its successor mark as provided by BIS, wherever applicable. The material procured and the design of the installation shall also conform to the standards and specifications of the distribution/transmission licensee. Provided that if the applicant chooses to get the work done on his own, the licensee shall charge supervision charges at the rate of 1.5% of the estimated cost of such works as are to be finally handed over to the distribution/transmission licensee or as approved by the Commission.”

- 1.5 That the respondent DHBVNL in compliance of the HERC Regulations, dealing with electricity supply code issued various sales instructions/circulars from time to time. That, with regard to self-execution of works a Sales Circular No.D-11/2012 was issued wherein it was mentioned that the consumer will get the work carried out from the empaneled contractors of the Nigam. The said circular was amended by issuing Sale Circular No.D-14/2012 whereby, the option was given to the consumers that they can get the work executed through 1st Class licensed contractors.

The above said amendment was further fortified by the respondents by issuing Sales Circular No.D-44/2013. This Sale Circular specifies that where supply of electricity requires any extension of distribution system and the consumer opts for self-execution of work, the work shall be executed through Class-I, licence contractor and the consumer is required to pay supervision charges @ 1.5 % of the estimated costs.

- 1.6 That in the year 2018, the respondent Nigam took a deviation from the mandatory HERC Regulations and in order to violate the regulations issued Sales Circular No.D-18/2018, wherein, once again it was specified that the work under self-execution scheme shall be carried out only through contractors empaneled by the Nigam under EOI-05 & EOI-12 for 33 KV and 11 KV works respectively. However, the said violation was not implemented and the self-execution of works continued to be carried out through 1st Class licensed contractors.
- 1.7 That with reference to the sale circular D-18/2018, another Sales Circular D-24/2024 was issued by the respondent Nigam. At point No. i, it was categorically mentioned as under: -

“i. The work shall be carried out under the self-execution scheme only through contractors empaneled by PD wings of the Nigam for 33KV & 11KV works, respectively.....”

It is the respectful submission of the petitioners that the above said clause is in direct conflict/contravention to Regulation 3.10 of the HERC Duty to Supply Electricity on Request and Power to Recover Expenditure and Power to Recover Security Regulation, 2016 (P-3), which entitles all the prospective applicants to get the work of execution of the distribution system carried out on its own or through a licensed contractor and pay supervision charges to the licensee.

The respondent Nigam, on 09.07.2024 issued Notice inviting Tender, whereby, e-tender for expression of interest for *“Empanelment of electrical contractors for supply, Installation, testing & commissioning of 33 kV lines, 33/11 kV Power Transformers & all other allied material required for augmentation /erection of 33 kV line, augmentation/erection of 33 kV Sub Stations on turnkey basis”* was invited. Part-I of the tender documents concerns with the Technical bid wherein Clause No.2 deals with the Qualifying Criteria specifying the General requirements, Technical Criteria and Financial Criteria required from the electrical contractors. From a bare perusal of the criteria's as mentioned in Clause no.2 and the actual practices as adopted by the respondents in the past, it is evident that there is no special condition with any reasonable differentia mentioned therein which is now required from the contractors, but still the contractors are being forced upon to get themselves registered in compliance of Sales Circular No.D-24/2024.

The regulations, 2016 (P-3) were amended by the 1st Amendment Regulation, 2020, however, no such amendment to Regulation 3.10 was made in these amended regulations. These amended regulations were also followed and circulated by the respondent Nigam through Sales Circular No.D-12/2020. Although, the HERC Regulations 1st amendment, Regulations, 2020 were subsequently amended by 2nd amendment, Regulations, 2023 and 3rd amendment, Regulations, 2023, however, with regard to the Regulation 3.10, no amendment was made.

- 1.8 That the factual position, which emerges from the above narrative sequence of events is that whereas, the Regulation 3.10 of the HERC Regulations, provides that any applicant, if he want to get the work of extension of distribution system, carried out on his own, ‘he shall get the same carried out through licensed electrical contractor and pay supervision charges at the rate of 1.5 per cent of the estimated cost of such works as are to be finally handed over to the distribution/transmission licensee or as approved by the commission”. However, Clause-i of the Sales Circular No.D-24/2024 (P-8), provides that the work shall be carried out under self-execution scheme only through contractors empaneled by PD wing of the Nigam for 33 KV and 11 KV works respectively. It is the respectful submission of the petitioner that the said clause of the Sales Circular (P-8) is not sustainable in as much as it restricts the broader option given by the HERC to the consumers to get work done from any of the licensed contractors.

- 1.9 That aggrieved with the Sales Circular No.D-24/2024 (P-8), the petitioners made a representation dated 25.10.2024 with respondent No.1, being the licensed Class-A contractors carrying out works of 11/33 KV of consumers under self-execution scheme for the last 20 years, and it was requested that the implementation of the above said circular may be kept in abeyance and ultimately scraped in as much as the same was against the express provision of the superior regulatory body i.e. HERC and that the directions/regulations of the HERC were binding and mandatory on the distribution licensee i.e. DHBVNL. However, the respondent Nigam has not given any attention to the above said representation despite the same having been addressed to the highest authority in the power sector i.e. respondent No.1 with a copy to the other respondents. Hence, the instant petition.
- 1.10 That clause-i, of the impugned sales circular D-24/2024 (P-8) dated 09.08.2024 to the extent it provides that the work shall be carried out under the self-execution scheme only through the contractors empanelled by PD wing of the Nigam for 33KV and 11KV works respectively is not sustainable in the eyes of law and the same is liable to be struck down inter alia on the following amongst other grounds:-
- i. That section 2(64) defines State Commission as the Commission constituted under Section 82 of the Electricity Act and functions of the State Commission under Section 86(1)(i) of the Act include issuance of licenses to persons seeking to act as distribution licensee and as per section 2(1) to specify/enforce standards with respect to quality, continuity and reliability of the services by the licensee. As per section 86(2)(i), the advisory function to advise the State Government in the matter relating to the activities of the State Government is also the responsibility of the HERC. Section 181 of the act empowers the State Commission to make regulations consistent with the act and rules to carry out the provisionary act by way of issuance of regulations and the regulation (P-3) has been issued in exercise of powers available under this section by the HERC. Thus, the said regulations (P-3) are binding on the distribution licensee. Not only this, the respondent Nigam has adopted the said regulations by way of issuance of Sales Circular No.D-23/2016. Once, the Nigam itself as adopted the said regulations, it cannot, acting in a unilateral manner, further amend or restrict the scope of such regulations by way of incorporating its own rules and providing that the electrical contractors who are asked upon by the consumers to execute the self-execution works shall be only those who are empaneled by the PD Wing of the DHBVNL.
 - ii. That the licenses to A Class contractors are granted by the Haryana Government and the procedure for the same has been duly notified by the Power Department of the Haryana Government vide notification dated 09.02.2021 (P-1) and thus such licensees are required to possess the requisite experience, qualifications and other capabilities. Once, the said license is granted by the Haryana Government, the DHBVNL has no authority to further put the

restriction that in addition to above, they should get themselves empaneled especially when the HERC Regulations do not provide for any such restrictions.

- iii. That the above said circular (P-8), if allowed to be implemented shall further promote nepotism and choosing of the favored few 'blue eyed' stooges of the Nigam. As at present, to the information of the petitioners, there are only two firms in the Gurugram area who are empaneled whereas, there are more than 20 licensed contractors in the area. That the development of Gurugram area especially sectors 58 to 115 where the HERC/Nigam have made it mandatory to have a system voltage level of 33/0.4 KV, the scope of work of the contractors have increased manifold. The limited number of empaneled contractors is leading to the consumers having to pay much more price for getting the work executing which is not in public interest and the consumers also have to run after them.
- iv. That the Nigam is the monopoly distribution licence in the area in as much as the HERC has not granted licence to any other utility. Keeping in view its monopoly status and still further, it being a company set up by the State Government, does not in any manner imply that it has the audacity to over awe the statutory superiority granted to HERC and thus the regulations of the HERC cannot be circumvented or further qualified by the DHBVNL to suit its own whims and fancies.
- v. That the empanelment of the licensed contractors by the DHBVNL, if it is allowed to with stand, shall put further financial burden on the consumers. In as much as the Nigam has put additional GST burden, additional supervisory charges etc., etc.. While getting the work done from the empaneled contractors and thus such empanelment is even against the sanctity of a model employer which the sole distribution licensee is obliged to profess and the same shall not be allowed to be carried out by this Hon'ble Commission.

1.11 That the petitioners have not filed any such of similar petition with regard to the instant matter either before this Hon'ble Commission or in any other court of law.

PRAYER:

It is, therefore, respectfully prayed that the records of the case may be called for and after perusing the same, this Hon'ble Commission may be pleased to:-

- (i) Quash/set aside clause(i) of the sales circular bearing No. D-24/2024 issued by the respondent No.2 to the extent it provides that "i. The work shall be carried out under the self-execution scheme only through contractors empaneled by PD wing of the Nigam for 33KV & 11KV works, respectively."
- (ii) Hold that clause 3.10 of the HERC Regulations, 2016 (P-3) shall be implemented mutatis mutandis;
- (iii) Pass any other orders or directions as deemed appropriate in the peculiar facts and circumstances of the case;

INTERIM RELIEF:-

It is further respectfully prayed that during the pendency of the instant petition, by way of interim relief, the applicants and other 'Class-A' contractors be allowed to carry out the self-execution works of the various prospective consumers even if they do not have empanelment of the PD Wing of the Nigam for 33 KV and 11KV works.

2. The case was heard on 21/05/2025, Sh. Ashwani Talwar counsel for the petitioner submitted that DHBVN has circulated instructions vide Sales Circular No. D-24/2024 that the work for 33 KV and 11 KV under self-execution scheme shall be carried out only through contractors empanelled by PD wing of the Nigam in contradiction to the regulations and hardly two or three empanelled contractors are available due to which the licensed electrical contractors are not able to carry out the self-execution work in DHBVN. Sh. Raheel Kohli counsel for DHBVN refuted the contention of the petitioner and submitted that around 51 contractors are empanelled and due opportunity was afforded to all the contractors to get them empanelled but the petitioners may not have availed the opportunity. The counsel submitted a new tender is being floated and likely to be finalised within two months. The petitioners may participate for empanelment. He further requested for two weeks' time to file the written reply. The Commission adjourned the matter and directed the respondents to submit their replies within two weeks with advance copy to petitioner and petitioner to file its rejoinder, if any, within one week thereafter
3. **Reply of DHBVN dated 03.06.2025:**
 - 3.1 The present reply is being filed on behalf of Dakshin Haryana Bijli Vitran Nigam Limited ("DHBVNL/Answering Respondent") and all other respondents, to the petition ("Petition") filed by M/s R.K. Industries & Ors. ("Petitioners"). The Petition has been filed *inter alia* seeking setting aside of the sales circular dated 09.08.2024 bearing No. D-24/2024 issued by the Answering Respondent ("Impugned Circular"), to the extent of the clarification provided under sub-clause (i) therein, as per which it has been specified that the work under self-execution scheme shall only be carried out by contractors empanelled by the Answering Respondent.
 - 3.2 At the outset, Answering Respondent denies and refutes the contents of the Petition, save and except to the extent herein expressly admitted and no part thereof should be presumed to have been admitted on account of express or implied non-denial or non-traversal thereof. Averments made in the Petition are evidently baseless and unwarranted and hence deserve no consideration by this Hon'ble Commission.
 - 3.3 Before setting out the para-wise reply to this Petition, the Respondent No.1 is setting out its preliminary submissions.

Preliminary Submissions

- 3.4 The Petition has been filed before this Hon'ble Commission, by various electrical contractors licensed by the Government of Haryana, seeking setting aside of the Impugned Circular which has been notified by the Answering Respondent. The Petitioners have averred that the Impugned Circular is in violation of the Haryana Electricity Regulatory Commission-Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to require security Regulations, 2016 ("HERC Regulations 2016").
- 3.5 The present dispute pertains to the eligibility criteria for engagement of electrical contractors by consumers, for self-execution of works of extension of distribution system. It is the case of the Petitioners that the Impugned Circular is not sustainable in law, as it purportedly restricts the option given to consumers under the HERC Regulations 2016 to engage any Licensed Electrical Contractor, as defined therein. The said contention is denied as being false and incorrect.
- 3.6 It is submitted that with a view to enhance grid safety and security and ensure the quality of work being executed under the self-execution mode, the Answering Respondent has issued the Impugned Circular, whereby it has been specified that such self-execution of works by consumers can only be carried out by such contractors that have been empanelled by the Answering Respondent.
- 3.7 It is respectfully submitted that the Impugned Circular is not in violation or contravention of the HERC Regulations 2016. On the contrary, it is most respectfully submitted that, the Impugned Circular has merely enhanced the eligibility criteria of the contractors that can carry out self-execution of works for consumers, with a sole objective to (a) maintain and further enhance the safety and security of the distribution network of the State of Haryana, and (b) provide a reliable electrical infrastructure to the inhabitants of State of Haryana. The Answering Respondent is thus acting in accordance with the provisions of the Electricity Act, 2003 ("Electricity Act"), which has conferred the task of ensuring the safety of the distribution systems on the distribution licensees.
- 3.8 The notification no.S.O.5/C.A. 36/2003/S. 180/2021 dated 09.02.2021, issued by the Power Department, Government of Haryana ("GOH Notification"), under Clause 4 therein sets out the eligibility criteria for obtaining the certificate of competency to be an electrical contractor. The said criteria simply require a person to have a degree in electrical engineering/ electrical and electronics engineering from an approved institution / board/ university, with one year experience after passing such degree. It is submitted that the said eligibility criteria would allow any person with a requisite degree and only one year of experience, to be a Licensed Electrical Contractor, carrying out paramount and critical tasks associated with extension of distribution system of the State of Haryana. Thus, the Impugned Circular was issued to streamline the process of appointing contractors for self-execution of works by consumers, so as to maintain a standard of

quality of work, and to ensure safety of the distribution system and the grid.

- 3.9 In light of the above, the Answering Respondent issued the Impugned Circular, with a view to ensure the quality and standard of contractors being used by consumers for self-execution of works. Thus, it has been specified in the said circular that self-execution of works by consumers shall only be carried out by contractors that have been empanelled with the Answering Respondent. The empanelment process would ensure adherence to rational eligibility criteria as provided under the bidding documents, which would in turn ensure safety of the distribution system. It is evident that the object sought to be achieved by the said condition is to ensure that organisations with the requisite financial wherewithal and technological know-how are chosen in order to provide better services to consumers. It is pertinent to mention that as per HERC Regulation 2016 the work executed under self-execution mode would be taken over by the Answering Respondent (i.e., will become part of the existing distribution system). Therefore, to fulfil its duty *inter-alia* towards ensuring safety of the existing distribution system, the Answering Respondent has issued the Impugned Circular thereby prescribing a practical, logical, and a reasonable criterion.

Para-wise reply

- 3.10 The contents of Para 1-5 are a matter of record and merit no reply. Any averment in excess of record is denied.
- 3.11 The contents of Para 6 are denied as being incorrect. It is denied that the Answering Respondent took a deviation from the mandatory HERC Regulations 2016. It is further denied that the Sales Circular No.D-18/2018 was issued to violate the HERC Regulations 2016. The Petitioners are making bald assertions and baseless allegations against the Answering Respondent.
- 3.12 The contents of Para 7 are denied as being completely false and incorrect. It is denied that the Impugned Circular is direct conflict/contravention to Clause 3.10 of the HERC Regulations 2016. As stated in the preliminary submissions above, the Impugned Circular has been issued with a view to enhance grid safety and security and ensure the quality of work being self-executed by consumers, so as to maintain the security of the distribution system of the State of Haryana. Thus, it has been specified in the said circular that self-execution of works by consumers shall only be carried out by contractors that have been empanelled with the Answering Respondent. The empanelment process would ensure adherence to rational eligibility criteria as provided under the bidding documents, which would in turn ensure safety of the distribution system. The Petitioners have also contended that the criteria laid down in the EOI 2024 issued by the Answering Respondents, is similar to the eligibility criteria provided under the HERC Regulations 2016, and as such there is no special condition with any reasonable differentia mentioned in the EOI 2024 which is now required from the contractors. The said contention of the Petitioners is denied as being incorrect. It is most respectfully submitted that a bare perusal of the eligibility criteria for bidders as provided in the EOI 2024

would make it abundantly clear that the same is much more comprehensive than what has been provided under the HERC Regulations 2016. Without prejudice to the same, it is submitted that if as per the Petitioners the new eligibility criteria provided under the Impugned Circular/EOI 2024 is the same as what has been provided under the HERC Guidelines 2016, then the Impugned Circular cannot possibly be in violation or contravention of the HERC Guidelines 2016. Thus, as per the admission of the Petitioners themselves, the Impugned Circular is not in contravention of the HERC Regulations 2016.

- 3.13 The contents of Para 8 are denied as being false and incorrect. It is denied that the Impugned Circular is not sustainable. The contents of the preliminary submissions are reiterated and are not being repeated for the sake of brevity. It is also submitted that the scope of judicial review of administrative actions is very limited, as is seen in a catena of judgments. It is trite that administrative decisions may only be reviewed on the cornerstone of arbitrariness, bias and mala fides. In the present case, the Petitioners have failed to demonstrate as to how the Impugned Circular is contrary to public interest, and/or discriminatory or arbitrary.
- 3.14 The contents of Para 9 are denied, save and except that which may be a matter of record. It is respectfully submitted that the Impugned Circular is not in violation or contravention of the HERC Regulations 2016. On the contrary, it is most respectfully submitted that, the Impugned Circular has merely enhanced the eligibility criteria of the contractors that can carry out self-execution of works for consumers, with a sole objective to (a) maintain and further enhance the safety and security of the distribution network of the State of Haryana, and (b) provide a reliable electrical infrastructure to the inhabitants of State of Haryana.
- 3.15 The contents of Para 10(i) and 10(ii) are denied as being incorrect. It is denied that the Answering Respondent has acted in a unilateral manner. It is further denied that the Impugned Circular has amended or restricted the scope of the HERC Regulations 2016. The contents of the preliminary submissions are being reiterated here and are not being repeated for the sake of brevity.
- 3.16 The contents of Para 10(iii) are denied as being illogical and absurd. It is vehemently denied that the procedure set out under the Impugned Circular with regard to empanelment of electrical contracts will lead to nepotism and choosing of blue-eyed stooges of the Answering Respondent. The process of floating a tender empanel contractors is completely transparent and fair. As such, it is unfathomable as to how a tender process could possibly lead to nepotism. The Petitioners have made very serious allegations against the Answering Respondent, without providing any basis for the same. It is submitted that the Petitioners may be put to strict proof for levelling such serious and derogatory allegations against the Answering Respondent. It is utmost relevant to mention that the Answering Respondent has even conducted a fair and transparent bidding process in 2024 and accordingly empanelled 51 contractors, out of which 14 contractors have been

empanelled for electrical work in Gurugram. Therefore, the Petitioner is incorrectly suggesting that there are only two empanelled firms in Gurugram area.

- 3.17 The contents of Para 10(iv) are denied as being incorrect. It is denied that the Answering Respondent has a monopoly in the area. It is further denied that the Answering Respondent is over-awing the statutory superiority granted to this Hon'ble Commission. The Petitioner have made very grave and serious allegations against the Answering Respondent, which are completely baseless and unsubstantiated. The Petitioners may be put to strict proof regarding the same.
- 3.18 The contents of Para 10(v) are denied as being incorrect. It is denied that empanelment of licensed contractors by the Answering Respondent will put further financial burden on the consumers. The Petitioners are making vague and bald assertions, without corroborating the same.
- 3.19 The contents of Para 11 are a matter of record and merit no reply.
- 3.20 The contents of the Prayer clause are denied. The Petitioner is not entitled to any of the reliefs sought.
- 3.21 In light of the above, this Hon'ble Commission may dismiss the Petition.
- 3.22 The Respondents reserves its right to amend, add or alter this Reply, if necessary and/or to file additional/supplemental pleadings and/or documents, if required or if directed by this Hon'ble Commission.

4. Rejoinder of petitioner dated 04.06.2025:

PRELIMINARY OBJECTIONS TO THE REPLY OF RESPONDENTS:-

- 4.1 That it is a settled proposition of law that the Regulations as made by this Hon'ble Commission are binding upon the respective distribution licensees. In the instant case, vide Clause 3.10 of the Regulations, it has been categorically provided that in case any consumer wants to get the work of extension of distribution system, carried out on own his own, he shall get the same carried out the same through a Licensed Electrical contractor and pay supervision charges to the Distribution Licenses.
- Clause 2.29 of the Regulations (P-3) defines the Licensed Electrical Contractor (LEC) as a contractor licensed under Regulation 29 of the Central Electricity Authority (Measures relating to safety and Electric Supply) Regulations, 2010 and the said Regulations are appended with the instant rejoinder. As is evident from the Annexures P-2/1 to P-2/8, all the petitioners have been issued the A Class Electrical Contractor Licenses for the State of Haryana and thus, are fully eligible and entitled to carry out the work of extension of distribution system as per the requirements of various consumers/ entities without there being any requirement of any further scrutiny/ empanelment by the electricity utilities/ distribution licensees.
- In the entire reply, as submitted by the respondents, there is not even a single averment as to how and under which authority, the Nigams can further limit the scope of the A Class licensed contractor of Haryana Government from executing the various works as provided in the Regulation (P-3).

4.2 That the Nigam, in its reply has nowhere controverted the above said proposition but still has taken a meek stand that the impugned Sales Circular No. D-24/2024 (P-8) merely enhances the eligibility criteria of the contractors with the sole objective to

a) *maintain and further enhance the safety and security of the distribution network and*

b) *to provide the reliable infrastructure.*

It has further been mentioned in Para no.8 of the preliminary submissions that the impugned sales circular (P-8) had been issued to streamline the process of appointing contractors for self-execution of works by the consumer and thus has been done to ensure the quality and standards of contractors being used by the consumers for self-execution of works.

It is further mentioned in Para No.9 of the preliminary submissions that the object sought to be achieved by the said condition is to ensure that organizations with the requisite financial wherewithal and technological knowhow are chosen in order to provide better services to the consumers.

It is the empathic assertion of the petitioners that none of the above grounds as mentioned in the reply and referred to above, are sustainable in the eyes of law. This Hon'ble Commission, after due consideration and deliberations and application of mind has notified the 2016 Regulations vide Annexure P-3 and the validity/ vires of the said regulations have not been challenged anywhere by any of the entities and thus, they have the force of law. Not only this, the said regulations, have been amended at least three times vide 1st amendment dated 19.03.2020 (P-9), 2nd amendment dated 27.09.2023 (P-11) and 3rd amendment dated 27.09.2023 (P-12). The Clause 3.10, as provided in the original regulations of 2016 (P-3) has not been touched at all in these amendments. Thus, the respondent-Nigam is estopped from issuing any notification/ sales circular, which may tinker with or narrow the scope of the eligibility as laid down in the regulations at the end of Distribution licenses

4.3 That there is another aspect of the matter, as per regulations (P-3) of the Hon'ble Commission, the term Licensed electrical contractor has been defined to mean a contractor licensed under Regulation 29 of the Central Electricity Authority (Measures relating to safety and Electric Supply) Regulations, 2010 (Annexure P-15). The Haryana Government vide notification dated 09.02.2021 (P-1) has formulated its own rules called '*Haryana Electrical Contractor License, Certificate of Competency and Wireman Permit Rules, 2021*' and as per Clause 2(1)(i), License means, 'A' Class Electrical Contractor License granted to carry out erection and installation of all type of electrical installation work of various voltage level.

Clause 12 of the Rules, 2021 provides for the detailed eligibility criteria for grant of a License and Clause 13 to 21 of the said rules provides other details in order to obtain and to continue the execution of work by an A Class Licensed Contractor. All the petitioners, having obtained such a license, which has been duly recognized and acknowledged by

the Hon'ble HERC, the respondent-Nigam has no authority, power or jurisdiction to further lay down the conditions for further sub classification of the said licensed A Class contractor for executing the works in the electricity utility under the pretext of enhancing the safety & security or to provide a reliable electrical infrastructure as mentioned in the reply. Thus, the instant petition is liable to be allowed by quashing the Impugned Sales Circular (P-8) to the extent that Clause-i of the circular provides that *"i. The work shall be carried out under the self-execution scheme only through contractors empaneled by PD wings of the Nigam for 33KV & 11KV works, respectively."* and by further holding that it is Clause 3.10 of the 2016 Regulations (P-3), which shall be applicable mutatis mutandis.

- 4.4 That the respondent-Nigam is further deliberately trying to mislead this Hon'ble Commission by making incomplete and false averments in Para no.16 of the reply. The respondents have attached 'Annexure R-1' showing list of 51 empanelled firms and further stated that out of these 51 firms, 14 numbers of contractors have been empanelled for electrical work in Gurugram. The said averments were made in order to controvert the submission of petitioner that only two numbers of contractors were empanelled for Gurugram. The respondent-Nigam has cleverly attached only a list of empanelled contractors who were authorized to do the work for 11 KV system.

However, it is a matter of record that for Sectors 58 to 115 of Gurugram, as well as Sectors 78 onwards of Faridabad and the belt on the left side of Delhi-Jaipur Highway in the township of Dharurera, the permissible voltage level is 33KV/0.4KV and thus, in fact it is the list of empanelled contractors at 33KV level which should have been attached. The said list is appended by the petitioners with the instant rejoinder, and from a perusal of the list, it is evident that out of list of total 23 firms for the entire DHBVN, only two contractors i.e. at Sr.2 & 10 belonged to Gurugram.

The respondents have thus deliberately tried to mislead this Hon'ble Commission and withhold the factual position from this Hon'ble Commission.

REJOINDER TO PARA NO. 1 TO 3 OF THE REPLY:-

1 to 3. That the contents of the Para nos. 1 to 3 of the reply do not call for any rejoinder but is denied to the extent of allegations made by the respondent-Nigam that the averments made in the petition are baseless or unwarranted. The instant petition is clearly maintainable and is liable to be adjudicated by this Hon'ble Commission on merits.

REPLY TO PARA NO. 4 TO 9 MADE AS PRELIMINARY SUBMISSIONS OF THE REPLY:-

4. That the contents of Para no.4 of the Preliminary Submissions being a matter of record do not call for any separate reply.

5 to 9. That the contents of Para No. 5 to 9 made as Preliminary Submissions are wrong and the same are vehemently denied. The entire submissions made by the respondents in these paras are already rebutted in the Para nos. 1 to 4 of above Preliminary objections and the contents of the same be read as reply to these paras.

REJOINDER TO PARA NOS. 10 TO 22 OF THE PARA-WISE REPLY:-

10 to 22. That the contents of Para nos. 10 to 22 of the Para-wise reply are wrong and the same are vehemently denied. The petitioners respectfully reiterate the contents of respective paragraphs of the petition. The entire factual as well as legal position has been explained in the Para nos. 1 to 4 of above Preliminary objections as well as in the petition and the same may be read as rejoinder to these paras.

Commission's order:

5. The case was heard on 10/06/2025, as scheduled, in the court room of the Commission.
6. At the outset, Sh. Raheel Kohli counsel for petitioner submitted the written arguments and stated that the respondents are duty bound to take actions, frame rules and specify conditions which are required for ensuring quality workmanship which in turn leads to supply of quality power to the consumers in compliance to various regulations framed by the Commission under Electricity Act, 2003. Due opportunity was afforded to all the contractors to get them empanelled but the petitioners may not have availed the opportunity. The counsel further submitted that a new tender is being floated by DHBVN which is likely to be finalised within two months. The aggrieved contractors may participate in the process to get them empanelled subject to fulfilling the qualification criteria specified. The counsel also cited the judgements of Hon'ble High Court of Delhi in WP(C) 9662/2022 dated 13/07/2022 with respect to criteria adopted in the tenders and Hon'ble High Court of Calcutta in MAT 1116/2022 and IA no. CAN 1 of 2022 dated 07/10/2024 with respect to age bar for renewal of license of electrical supervisor.
7. Sh. Ashwani Talwar counsel for the petitioner submitted that the Regulation 3.10 of the HERC (Duty to supply Electricity on request and Power to Recover Expenditure and Power to Recover Security) Regulations, 2016, provides that any applicant, if he wants to get the work of extension of distribution system, carried out on his own, "he shall get the same carried out through licensed electrical contractor and pay supervision charges at the rate of 1.5 per cent of the estimated cost of such works as are to be finally handed over to the distribution/transmission licensee or as approved by the commission". However, Clause-i of the Sales Circular No. D-24/2024, provides that the work shall be carried out under self-execution scheme only through contractors empanelled by PD wing of the Nigam for 33 KV and 11 KV works respectively. It is the respectful submission of the petitioner that the said clause of the Sales Circular No. D-24/2024 is not sustainable in as much as it restricts the broader option given by the HERC to the

consumers to get work done from any of the licensed contractors. The Commission has not specified any criteria for empanelment of the Contractors in the regulations and Nigam's conditions for empanelment are arbitrary. The petitioners prayed that the Commission may be pleased to:

- a) Quash/set aside clause(i) of the sales circular bearing No. D-24/2024 issued by the respondent No.2 to the extent it provides that "The work shall be carried out under the self-execution scheme only through contractors empanelled by PD wing of the Nigam for 33KV & 11KV works, respectively."
- b) Hold that clause 3.10 of the HERC Regulations, 2016 shall be implemented mutatis mutandis;

8. It is observed that regulation 3.10 of the HERC Regulations inter alia states as under:

"3.10 Self Execution of work by the applicant

The applicant can get the work of extension of distribution system carried out on his own. In that case he shall get the same carried out through a Licensed Electrical Contractor and pay supervision charges to the licensee. In such case the consumer himself shall procure the material and equipment. The material and equipment procured shall conform to relevant BIS specifications or its international equivalent and should bear the ISI mark or its successor mark as provided by BIS, wherever applicable. The material procured and the design of the installation shall also conform to the standards and specifications of the distribution/transmission licensee. Provided that if the applicant chooses to get the work done on his own, the licensee shall charge supervision charges at the rate of 1.5% of the estimated cost of such works as are to be finally handed over to the distribution/transmission licensee or as approved by the Commission."

9. Upon having considered the Petition, reply of the respondents, rejoinder of the petitioner and averments made during the arguments the Commission observes that the respondent DHBVN is always in a position to supervise the work executed by any contractor. The contention of the respondent to specify stringent qualification criteria in its Sales Circular No. D-24/2024 on the pretext of ensuring quality work is not tenable since the respondent is charging the consumers towards supervision charges and always has full authority to supervise the quality of workmanship and material used for execution of the work and to take appropriate action in case of any deviation from the standard specifications. Moreover, the facts of the current case are different from the cases cited by the respondent in its written arguments, which means

that specific circumstances are not identical. Hence, the judgements cited by the respondent have no relevance to present petition.

10. In view of the discussions as above, The Commission, therefore, allows the petition and decides to set aside clause(i) of the sales circular bearing No. D-24/2024 issued by the respondent No.2 to the extent it provides that “*i. The work shall be carried out under the self-execution scheme only through contractors empanelled by PD wing of the Nigam for 33KV & 11KV works, respectively*”.
11. The petition is disposed of in above terms.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 10/06/2025.

Date: 10/06/2025
Place: Panchkula

(Mukesh Garg)
Member

(Nand Lal Sharma)
Chairman