CNR No: PHHC010269262026
2026:PHHC:135107

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-4732-2026

M/S AMBEY INDUSTRIES

…Petitioner(s)

Versus

PUNJAB STATE POWER CORPORATION LIMITED AND OTHERS

…Respondent(s)

1.	The date when the judgment is reserved	06.08.2026
2.	The date when the judgment is pronounced	21.09.2026
3.	The date when the judgment is uploaded on the website	21.09.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not Applicable

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. Aditya Grover, Advocate and Ms. Mehak Chadha, Advocate for the petitioner.

Mr. Tarun Aggarwal, Advocate
for respondent no.1 to 5.

Ms. Gargi Kumar, Advocate and
Mr. Pritish Goel, Advocate
for respondent no.7.

TRIBHUVAN DAHIYA, J.

The petition has been filed, *inter alia*, seeking a writ of *certiorari* setting aside the order dated 22.12.2025, Annexure P-1, passed by the seventh respondent - the Punjab State Electricity Regulatory Commission (for short, 'the Commission') in petition no.63 of 2025, filed against the decision of Chairman-cum-Managing Director, Punjab State Power Corporation Limited (for short, 'the PSPCL') to release electricity connection to the sixth respondent - M/s Lord Mahavir Industries Private Limited by tapping the

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existing 66 KV transmission line set up at the cost of the petitioner when it sought an electricity connection from the PSPCL in 2022.

2. In brief, relevant facts of the case are, the aforesaid decision of the PSPCL to tap the existing dedicated 66KV line was challenged by the petitioner by filing a petition under Regulation 64, 68, 69, 71 and 72, Chapter XIII, of the Punjab State Electricity Regulatory Commission (Conduct of Business) Regulations, 2005, made vide notification dated 07.03.2005 (for short, 'the Business Regulations') before the Commission. The petition was dismissed vide impugned order dated 22.12.2025. At the time of passing the order, quorum of the Commission consisted of Chairperson and another member, both of whom were from technical/engineering backgrounds.

3. The sole contention raised before this Court to challenge the order by learned counsel for the petitioner is that to exercise adjudicatory powers the Commission must have at least one of its members from the legal field. And the impugned order, which is in exercise of adjudicatory function, has been passed in the absence of a person from the legal field as its member. The order is accordingly without jurisdiction and liable to be set aside. In support of the contention, reliance has been placed upon the Supreme Court judgment in *State of Gujarat and others* v. *Utility Users' Welfare Association and others,* (2018) 6 SCC 21. He further contends that as on date the Commission has a member from the legal field, and the matter may be remanded to it for fresh consideration in accordance with law.

4. Learned counsel for the Commission vehemently opposed the submission made on behalf of the petitioner and contended that while passing the impugned order the Commission did not perform any adjudicatory function. The petition was filed under Section 64 of the Business Regulations

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which pertained only to regulatory functions of the Commission, and not adjudicatory. It is only under Section 86(1)(f) of the Electricity Act, 2003 (for short, 'the 2003 Act') that adjudicatory functions are performed by the Commission whereunder it decides disputes between a licensee and a generating company. This is not the case here as the petitioner is a consumer of electricity and has raised the grievance against tapping of dedicated 66KV line to release electricity connection to the sixth respondent. The judgment in *Utility Users' Welfare Association* case *ibid*., does not deal with this issue. It only lays down that a validly constituted Commission under Section 82 of the 2003 Act must have one of its members or Chairperson from the legal field for the said adjudicatory functions. Further, it is provided under Regulation 8(2) of the Business Regulations that quorum for proceedings of the Commission, including any decision to be taken in any meeting, shall be Chairperson and a member. And the impugned order, having been passed by the Chairperson with one member, is *coram judice*.

5. Submissions made by learned counsel for the parties have been considered.

6. The issue arising for consideration is, whether all adjudicatory functions of the Commission are mandatorily required to be performed by a Bench having a person from the legal field as its member.

7. The discussion on these issues would require reference to relevant provision of the 2003 Act as well as the Business Regulations framed thereunder, which are as follows:

> The Electricity Act, 2003
>
> **86. Functions of State Commission**.–(1) The State Commission shall discharge the following functions, namely:-

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(a) determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State:

Provided that where open access has been permitted to a category of consumers under section 42, the State Commission shall determine only the wheeling charges and surcharge thereon, if any, for the said category of consumers;

(b) regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State;

(c) facilitate intra-State transmission and wheeling of electricity;

(d) issue licences to persons seeking to act as transmission licensees, distribution licensees and electricity traders with respect to their operations within the State;

(e) promote cogeneration and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee;

(f) adjudicate upon the disputes between the licensees and generating companies and to refer any dispute for arbitration;

(g) levy fee for the purposes of this Act;

(h) specify State Grid Code consistent with the Grid Code specified under clause (h) of sub-section (1) of section 79;

(i) specify or enforce standards with respect to quality, continuity and reliability of service by licensees;

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(j) fix the trading margin in the intra-State trading of electricity, if considered, necessary; and

(k) discharge such other functions as may be assigned to it under this Act.

(2) The State Commission shall advise the State Government on all or any of the following matters, namely:-

(i) promotion of competition, efficiency and economy in activities of the electricity industry;

(ii) promotion of investment in electricity industry;

(iii) reorganisation and restructuring of electricity industry in the State;

(iv) matters concerning generation, transmission, distribution and trading of electricity or any other matter referred to the State Commission by that Government.

(3) The State Commission shall ensure transparency while exercising its powers and discharging its functions.

(4) In discharge of its functions, the State Commission shall be guided by the National Electricity Policy, National Electricity Plan and Tariff Policy published under section 3.

The Punjab State Electricity Regulatory Commission (Conduct of Business) Regulations, 2005

Chapter II

General Rules Concerning the Proceedings before the Commission

8. Proceedings before the Commission:-

(1) The Commission may, from time to time, hold such proceedings as it may consider appropriate in discharge of its functions under the Act.

(2) The quorum for the proceedings of the Commission including any decision to be taken in any meeting shall be Chairperson and one Member.

(3) All matters which the Commission is required under the Act to undertake and discharge through hearings shall

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be done through hearing in the manner specified under the Act and in these Regulations.

(4) Except where the Commission may provide otherwise for reasons to be recorded in writing, all matters affecting the rights or interests of the licensee or any other person or class of persons shall be undertaken and discharged through hearing in the manner specified in these Regulations.

(5) to (7) xxx xxx xxx

10. Petitions before the Commission:-

(1) All petitions shall contain a clear and concise statement of the facts with material particulars, the applicable provisions of law, the relief sought and the basis for such relief.

(2) to (6) xxx xxx xxx

(7) The fee specified by the Commission shall be paid at the time of filing of the petition unless otherwise directed by the Commission.

(8) All Petitions filed shall be supported by an affidavit and every such affidavit shall be in the Form attached to these Regulations as Appendix 2.

(9) to (12) xxx xxx xxx

11. to 63. xxx xxx xxx

64. Review of the decisions, directions and orders:-

(1) Any person aggrieved by a decision or order of the Commission, from which no appeal is preferred or allowed, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decision/order was passed by the Commission or on account of some mistake or error apparent on the face of record, or for any other sufficient reason, may apply for review of such order within 60 days of the date of decision/ order of the Commission.

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> (2) An application for review shall be filed in the same manner as a petition under Chapter II [General Rules concerning the proceedings before the Commission] of these Regulations.
>
> (3) to (9) xxx xxx xxx

8. In *Utility Users' Welfare Association* case *ibid*., the Supreme Court considered the question whether there can be mandatory provisions read into Section 84(1) of the 2003 Act to the effect that at least one person from the legal field is necessary, though the said provision does not expressly so provide. Discussing the issue, the Court held as under:

> 116. In the context of the question which we are now dealing with, if we were to take the proposition as "no member having knowledge of law is required to be a member of the Commission" then we have a problem at hand. This is so because while interpreting Section 86 of the said Act, it has been expressed that the Commission has the "trappings of the court", an aspect we have agreed to hereinbefore. Once it has the "trappings of the court" and performs judicial functions, albeit limited ones in the context of the overall functioning of the Commission, still while performing such judicial functions which may be of far-reaching effect, the presence of a member having knowledge of law would become necessary. The absence of a member having knowledge of law would make the composition of the State Commission such as would make it incapable of performing the functions under Section 86(1)(f) of the said Act.
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> 117. In *Madras Bar Assn.* (MJ-II), the Constitution Bench, referring to the decision in *Madras Bar Assn.* (MJ-I) observed that members of tribunals discharging judicial functions could only be drawn from sources possessed of expertise in law and competent to discharge judicial functions. We are conscious of the fact that the case (MJ-I) dealt with a factual matrix where the powers vested in courts were sought to be transferred to the tribunal, but what is relevant is the aspect of judicial functions

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with all the "trappings of the court" and exercise of judicial power, at least, in respect of same part of the functioning of the State Commission. Thus, if the Chairman of the Commission is not a man of law, there should, at least, be a member who is drawn from the legal field. The observations of the Constitution Bench in *Madras Bar Assn.* (MJ-II) constitute a declaration on the concept of basic structure with reference to the concepts of "separation of powers", "rule of law" and "judicial review". The first question raised before the Constitution Bench as to whether judicial review was part of the basic structure of the Constitution was, thus, answered in the affirmative.

118. We are, thus, of the view that it is mandatory to have a person of law, as a member of the State Commission. When we say so, it does not imply that any person from the field of law can be picked up. It has to be a person, who is, or has been holding a judicial office or is a person possessing professional qualifications with substantial experience in the practice of law, who has the requisite qualifications to have been appointed as a Judge of the High Court or a District Judge.

119. In *Brahm Dutt* v. *Union of India*, it has been observed that if there are advisory and regulatory functions as well as adjudicatory functions to be performed, it may be appropriate to create two separate bodies for the same. That is, however, an aspect, which is in the wisdom of the legislature and that course is certainly open for the future if the legislature deems it so. *However, at present there is a single Commission, which inter alia performs adjudicatory functions and, thus, the presence of a man of law as a member is a necessity in order to sustain the provision, as otherwise, it would fall foul of the principles of separation of powers and judicial review, which have been read to be a part of the basic structure of the Constitution*. (italics by this Court)

120. xxx xxx xxx

121. We are, thus, of the unequivocal view that *for all adjudicatory functions*, the Bench must necessarily have at least

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> one member, who is or has been holding a judicial office or is a person possessing professional qualifications with substantial experience in the practice of law and who has the requisite qualifications to have been appointed as a Judge of the High Court or a District Judge. (italics by this Court)

9. Apparently, it has been explicitly held that for all adjudicatory functions the Bench of the Commission must compulsorily have at least one member who is or has been holding a judicial office, or is a person with substantial experience in the practice of law having the requisite qualifications to be appointed as a Judge of the High Court or a District Judge. The Court also noticed, if there are *advisory*, *regulatory* as well as *adjudicatory* functions to be performed by the Commission, it may be appropriate to have separate bodies for each of these functions. As there is only one body, the Commission (a tribunal having trappings of a Court), to perform all these functions under the 2003 Act, presence of a person drawn from legal field as a member or Chairperson is necessary to make it compliant of the principles of 'separation of powers' and 'judicial review' forming part of the basic structure of the Constitution. Since the impugned order dated 22.12.2025 has been passed by such a Commission, which performs all the three functions aforementioned, it must have a person drawn from the legal field as its member/Chairperson on the Bench which undisputedly is not the case. The order resultantly becomes unsustainable.

9.1. The contention by learned counsel for the Commission that the impugned order has not been passed in exercise of adjudicatory functions under Section 86(1)(f) and therefore *Utility Users' Welfare Association* case *ibid.* would have no application, is misconceived. As discussed hereinbefore, it has been held in unequivocal terms that the Commission as such must have

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a person from legal field as its member or Chairperson since it is a composite body meant to perform adjudicatory functions, apart from advisory and regulatory functions. In such a situation, without a member from legal field the Commission cannot have any existence in law, and it cannot be considered a tribunal *de jure* empowered to perform either of these functions. This position in law has been laid down with reference to all adjudicatory functions to be performed by the Commission, and not with respect to adjudication of disputes under Section 86(1)(f) of the 2003 Act alone. The issue decided by the Supreme Court was -'*whether there can be a mandatory provision read into Section 84 of the said Act for opining, that at least one person from the legal field is necessary as a member, although on a plain reading of the section it is not so.*' It was answered by holding that "for all adjudicatory functions" the Bench of the Commission must necessarily have at least one member from the legal field. Evidently, the issue has been dealt with in generic terms with reference to the Act as such and not strictly with reference to Section 86(1)(f) alone. No doubt the Commission is empowered to decide/adjudicate disputes between the licensees and generating companies only under this provision, but it is not the case that it does not perform any other adjudicatory function. In case it does, the ratio of *Utility Users' Welfare Association* case *ibid*., would be applicable for those functions as well with equal force.

9.2. The concomitant issue to be considered therefore is, can it be said the impugned order has not been passed by the Commission in exercise of its adjudicatory powers. The petition leading to passing of that order has been filed under Regulation 64 of the Business Regulations which entitles any person aggrieved by a decision or order of the Commission from which no

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appeal has been preferred or permitted, to apply for review of such decision or order within sixty days from the date of the order. The application for review is to be filed in same manner as prescribed in chapter II of these Regulations, and supported by a duly sworn affidavit. Regulation 8 under this chapter provides that quorum for the Commission's proceedings shall be Chairperson and one member. After service of notice to the respondents, for which procedure has been prescribed under Regulation 12, and filing of reply, objections, etc., as per Regulation 13, the petition is to be heard and decided by passing orders under Regulation 18. The impugned order dated 22.12.2025 has been passed by the Commission following this procedure. This is nothing but adjudication of the dispute raised by the petitioner - that the sixth respondent is not entitled to electricity connection by tapping the existing 66 KV line feeding the petitioner, and cannot be termed an order passed in exercise of regulatory powers in any manner. Such powers are well defined in Section 86(1) of the 2003 Act, viz., determination of tariff, regulation of electricity purchase and procurement process of distribution licensees, facilitating intra-State transmission, issuing licences to persons, promoting generation of electricity from renewable sources, levy fee, specify or enforce standards, and fix trading margins. The impugned order does not fall under any of these categories, as it simply decides the dispute concerning tapping of an existing dedicated line and does not pertain to any of these powers/functions. The advisory role to be performed by the State Commission has been specified in sub-section (2) to section 86 which is, promotion of competition, efficiency and economy in activities of electric industry, promotion of investment, restructuring of electricity industry, matters concerning generation, transmission, distribution and trading of electricity,

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etc. It is not the respondents' case that the impugned order has anything to do with the advisory powers of the Commission.

9.3. To further delineate the issue, the Black's Law Dictionary, twelfth edition, 2024, defines the word 'adjudication' as under:

> **adjudication** 'the process or action of judging'. The legal process of resolving a dispute; the process of judicially deciding a case.

Accordingly, adjudication means to settle a dispute by a process of judging. The process implies affording due hearing to the concerned parties on factual and legal issues, and their determination. This is exactly what has been done by the Commission in passing the impugned order dated 22.12.2025 in exercise of its jurisdiction under the 2003 Act by following the procedure/process laid down under the Business Regulations. Resultantly, there is no escape from the conclusion that the impugned order has been passed in exercise of adjudicatory functions by the Commission which could only have been done in the presence of a member/Chairperson from the legal field, as held in *Utility Users' Welfare Association* case *ibid.*

9.4. Additionally, the Regulations have been framed in exercise of power under Section 181 of the 2003 Act "for conduct of its [Commission's] proceedings and discharge of its functions" prescribed under the Act, as the notification dated 07.03.2005 itself specifies. These Regulations are procedural in nature and do not provide for any substantive power to the Commission. Therefore, the orders passed thereunder cannot be termed regulatory *ipso facto*, as contended by learned counsel for the Commission, unless the same have been passed in exercise of such powers specifically defined under sub-section (1) to Section 86 of the 2003 Act, which is not the case here as already discussed. The regulatory functions or advisory functions

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under sub-section (2) to Section 86 of the Act may be performed by a Bench of the Commission not having a member from the legal field. But in case the Commission is called upon to adjudicate a dispute pertaining to or arising by virtue of exercise of either of these powers/functions, it must be by a Bench consisting of a person from the legal field as its member/Chairperson.

9.5. The question posed is accordingly answered in the affirmative.

10. In view thereof, the impugned order dated 22.12.2025 is set aside being without jurisdiction, and the matter is remanded to the Commission for fresh adjudication in accordance with law.

11. The petition stands disposed of in the aforesaid terms.

(TRIBHUVAN DAHIYA)
JUDGE

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Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*

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