

**BEFORE THE HIMACHAL PRADESH ELECTRICITY
REGULATORY COMMISSION SHIMLA**

Review Petition No.	102 of 2026
Date of Institution:	11.06.2026
Arguments Heard on:	23.06.2026
Decided on:	30.06.2026

CORAM

YASHWANT SINGH CHO GAL
MEMBER (Law)-cum-Chairman

SHASHI KANT JOSHI
MEMBER

The HP State Electricity Board Ltd. through
Chief Engineer (System Operation),
Vidyut Bhawan, Shimla, HP-171004.

.....Petitioner.

AND

Shivay Ghai Solar Power Project,
Registered Office at Vijay Kumar Ghai Katha Udyog,
Village Kohla, Post Office Khabli,
Tehsil Dehra, Distt. Kangra, H.P-177101.

.....Respondent.

Review Petition under Section 94(1)(f) of the Electricity Act 2003 read with Regulation 70 of the HPERC (Conduct of Business) Regulations, 2024, seeking review of the directions passed by the Commission vide daily order dated 25.05.2026.

Present:-

Sh. Raman Kumar, Superintending Engineer (Commercial)
for the Petitioner.

ORDER

This Review Petition has been filed by the Himachal Pradesh State Electricity Board Ltd. (the Petitioner or the HPSEBL for short) seeking review of the directions passed by the Commission vide daily

order dated 25.05.2026 in Petition No. 86 of 2026 under Section 94(1) (f) of the Electricity Act, 2003 (Act for short) read with Regulation 70 of the HPERC (Conduct of Business) Regulations, 2024, (CBR, 2024 for short).

2. It is averred that the Commission vide Daily Order dated 25.05.2026 (Annexure P-1) has observed and passed the following directions:-

“.....that the Chief Engineer concerned are not appearing on the day of results in huge embarrassment to the Commission in particular and the litigant public in general. We have already brought this concern to the Management of the HPSEBL in the past. Therefore, it is reiterated that in future, whenever any case (Even if a single case) is taken-up for hearing by the Commission, the concerned Chief Engineer shall invariably remain present.”

3. It is averred that subsequent to the ibid daily order passed on 25.05.2026, the Commission has disposed of the Petition No. 86 of 2026 vide order passed on 26.05.2026.

4. It is averred that the Chief Engineers of the HPSEBL are entrusted with extensive Administrative, Technical, Operational and Field responsibilities, requiring their continuous engagement in matters concerning the power sector across the State and the above observations and directions have been passed in general without giving any opportunity of being heard to all the Chief Engineers of the

Petitioner and thus, the Commission has acted in violation of the jurisdiction vested in it by the Electricity Act, 2003 and the Regulations framed thereunder by the Commission. When a specific matter was before the Commission, the Commission could not have passed general orders and given directions in general with regard to the Chief Engineers who were not present before the Commission.

5. It is averred that the HPSEBL is duly represented before the Commission through its authorized officers/ learned counsel, who remain available to assist the proceedings and address any issues arising during the course of hearing.

6. It is further averred that whenever any additional information, clarification, record or document is required by the Commission, the same shall be furnished by the HPSEBL in accordance with the directions of the Commission.

7. It is also averred that the Hon'ble Supreme Court of India, in Civil Appeal No. 013215 of 2024 and other connected Appeals arising in the matter titled Commissioner of Intermediate Education Vs. Y. Kumar Swamy (Annexure P-2), decided on 27.11.2024 where in para 7 of the Order, the Hon'ble Court has held as follows:-

"7. This Court had reiterated, time and again, that the personal presence of Government Officers should not be casually directed by the Courts, in as much as they are required to be on field for performing their official duties."

8. Pursuant to the ibid order passed by the Hon'ble Apex Court in Civil Appeal No. 013215 of 2024 and other connected Appeals, the present Review Petition is being preferred in accordance with Section 94 (1)(f) of the Electricity Act, 2003 and regulations 70 of the HPERC (Conduct of Business) Regulations, 2024.

9. It is averred that the Petitioner is left with no other efficacious remedy but to approach the Commission to recall its order dated 25.05.2026 and review the same in accordance with the powers of review vested in the Commission. It is also averred that the present review Petition is bonafide and in the interest of efficient discharge of official duties without causing any prejudice to the proceedings of the Commission.

10. We have heard Sh. Raman Kumar, Superintendent Engineer of the HPSEBL and have perused the record carefully, the following points arise for determination in the present Petition:-

Point No. 1: Whether the Order dated 25.05.2026 in Petition No. 86 of 2026 suffers from errors apparent on the face of record?

Point No. 2: Final Order

11. For the reasons to be recorded hereinafter in writing, our point wise findings are as under:-

Point No. 1:. No.

Point No. 2:. Petition dismissed per operative part of the order.

REASONS FOR FINDINGS

Point No. 1

12. At the very outset, it is relevant to mentioned that no errors apparent on the face of record in the Order dated 25.05.2026 have been pointed out. It is well settled principle that the power of review can be exercised for correction of a mistake but not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. The review cannot be treated like an appeal in disguise. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced at the time when the order was made. It may also be exercised where some mistake or error apparent on the face of the record is found but may not be exercised on the ground that the decision was erroneous on merits which is the domain of a court of appeal. While exercising the review court does not sit in appeal over its own order. A rehearing of the matter is impermissible in law. In this regard, reliance may be placed in Parsion Devi v. Sumitri Devi, (1997) 8 SCC 715 wherein it is held as under:-

“9. Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be “reheard and corrected”. A review petition, it must be remembered has a limited purpose and cannot be allowed to be “an appeal in disguise”.

13. Similarly in *Meera Bhanja v. Nirmala Kumari Choudhury*, (1995) 1 SCC 170 it has been held by the Hon’ble Supreme Court that the review proceedings are not by way of appeal and have to be strictly confined to the scope and ambit of Order 47, Rule 1, CPC. Para 8 of the aforesaid law is reproduced as under:-

*“8. It is well settled that the review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47, Rule 1, CPC. In connection with the limitation of the powers of the court under Order 47, Rule 1, while dealing with similar jurisdiction available to the High Court while seeking to review the orders under Article 226 of the Constitution of India, this Court, in the case of *Aribam Tuleswar Sharma v. Aribam Pishak Sharma* [(1979) 4 SCC 389 : AIR 1979 SC 1047] , speaking through Chinnappa Reddy, J., has made the following pertinent observations: (SCC p. 390, para 3)*

*“It is true as observed by this Court in *Shivdeo Singh v. State of Punjab* [AIR 1963 SC 1909] , there is nothing in Article 226 of the Constitution to preclude the High Court from exercising the power of review which inheres in every Court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a court of appeal. A power of review is not to*

be confused with appellate power which may enable an appellate court to correct all manner of errors committed by the subordinate court.”

14. A similar view has been taken by the Hon'ble Supreme Court in Ram Sahu v. Vinod Kumar Rawat, (2021) 13 SCC 1.

15. It is assertion of the Petitioner that the Commission has given the sweeping directions making it mandatory for the Chief Engineer concerned of the HPSEBL to remain present even if a single case is listed for hearing without any opportunity of being heard and , therefore, the Commission has acted beyond its jurisdiction under the Electricity Act, 2003. According to it, the Chief Engineers of the HPSEBL are entrusted with exhaustive administrative, technical, Operational and field responsibilities requiring continuous engagement in the matters concerning power sector and for answering the queries concerning the Petitioner and the Officers of the Legal Cell have been entrusted with such responsibilities.

16. The aforesaid assertion of the Petitioner is not tenable. The Commission requires presence only of the Chief Engineers stationed at the Headquarters of the HPSEBL at Chaura Medan Shimla i.e. Chief Engineer (Commercial), Chief Engineer (S.O), Chief Engineer (System Planning) and refrain for seeking attendance of Field Officers. The presence of the Officers stationed at Headquarters is required to answer

the technical and Commercial aspects of the matter for which the officers of the Legal Section show ignorance. Thus, the presence of the above said Chief Engineers stationed at Headquarters is called. The necessity seeking the presence and assistance of the Chief Engineers also assumes importance as the Petitioner/HPSEBL unlike the Govt. Departments is a Commercial Organization and a Company registered under the Companies Act. The entire Revenue Requirement of the HPSEBL is met by the Consumers of the Electricity in the State. Any Technical or Commercial aspect in case remains unexplained may result in not allowing pass through which may be prejudicial to the interest of the HPSEBL and recovery of any excess amount/expenditure may result in burdening the Consumer with higher tariff. This aspect, perhaps, has not taken care while filing the present Petition.

17. Even otherwise, the Chief Engineers stationed at the Headquarters hardly remain in Field. The Commission also does not conduct hearing in the matter on daily basis and rather, hearing in the matters are conducted only once in a week. Hence, no prejudice whatsoever, has occasioned to the HPSEBL with the aforesaid order under Review.

18. In fact, this Commission right from its constitution has highlighted the importance of presentation of cases by the Chief Engineers,

stationed at the Head Quarters. The HPSEBL in this regard has also notified Officers in respect of interconnection of Hydro Electricity Project and PPA matters vide Office Order No. HPSEB/2-6/2018-49419-27 dated 06.09.2018, Office Order No. HPSEB:-CE/(SO)/G-2/2018-19-2717-2832 dated 15.09.2018 and Office Order No. 54 HPSEB Ltd (Sectt)/18 dated 06.09.2018. In the circumstances, the Order No. HPSEBL(Sectt)/GE/102-23/2025-76843-947 dated 13.03.2025 does not advance the cause of the Petitioner in view of the observation made hereinabove that the Legal aspects may be well looked into by the Legal Cell Officers but the Technical and Commercial aspects have to be answered by the Chief Engineer concerned stationed at the Headquarters through whom the petitions/replies are filed.

19. The Petitioner in its support has referred to the Judgement of the Hon'ble Supreme Court of India in Civil Appeal No. 013215 of 2024 and other connected Appeals arising in the matter titled as Commissioner of Intermediate Education Vs. Y. Kumar Swamy (Annexure P-2), decided on 27.11.2024 and have reproduced para 7 of the order as under:-

"7. This Court had reiterated, time and again, that the personal presence of Government Officers should not be casually directed by the Courts, inasmuch as they are required to be on field for performing their official duties."

20. The law laid down by the Hon'ble Supreme Court in the afore mentioned judgement has no application to the fact and circumstances of the case for the reasons that the Officers of the HPSEBL cannot equate themselves to the Officers of the Govt. of the Himachal Pradesh. Both performs different nature of work. The HPSEBL is a Commercial Organization and a Company. The salaries of the Officers of Govt. of the Himachal Pradesh are met from the State exchequer whereas the salaries of the Officers of the HPSEBL are met from the ARR which is recovered from the Consumer of the State by way of tariff. Moreover, the Officers of the HPSEBL stationed at the Headquarters hardly perform Field Duties and generally remain at the Headquarters and the Commission also does not conduct hearing on daily basis as the hearings are conducted on weekly basis except in urgent nature of cases.

21. In view of the above, the Petitioner has not been able to substantiate that Order under Review suffers from the errors apparent on the face of the record. Thus, point No. 1 is decided against the Petitioner.

Final Order

22. In view of the above discussions and findings, the Petition fails and is accordingly dismissed.

23. Before parting, we would like to impress upon the Petitioner /HPSEBL to refrain from filing such unwarranted Petitions. In case, in future, such unwarranted Petition is filed, the Commission shall be constrain to not to allow the pass through of the litigation expenses.

24. The pending applications, if any, are also dismissed.

The file after needful be consigned to records.

Announced

30.06.2026

-sd-
(Shashi Kant Joshi)
Member

-sd-
(Yashwant Singh Chogal)
Member(Law)-cum-Chairman