

Form No: HCJD/C-121.

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

JUDICIAL DEPARTMENT

Writ Petition No. 1274 of 2019

Bestway Cement Limited
Vs
National Electric Power Regulatory Authority, etc.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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30-07-2020. Mr. Muhammad Umer Khan Vardag, Advocate for the petitioner.
Barrister Ahsan Jamal Pirzada, Advocate for the respondents.

The petitioner company has invoked the jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 assailing order, dated 02.10.2018 passed by the National Electric Power Regulatory Authority (hereinafter referred to as the "**Authority**").

2. The facts, in brief, are that pursuant to sanction granted by this Court, two juridical persons i.e. PAKCEM Limited and Bestway Cement Limited merged and as a consequence the entity which survived was the petitioner company. After completion of the merger process, Bestway Cement Limited vide letter, dated 08.09.2016 requested the Islamabad Electric Supply Company to transfer the bills and title of electricity meters from the name of PAKCEM Limited to Bestway

Cement Limited. The request was not acceded to and, therefore, a complaint was filed on 22.11.2016 before the Authority. The latter after affording an opportunity of hearing to the parties rejected the prayer sought by the petitioner company.

3. The relevant portion of the Authority's reasoning is contained in paragraph 9 of the impugned order, dated 02.10.2018. A plain reading of the said order shows that the Authority has not appreciated the scheme of law. The sanction of merger of two juridical persons, had led to extinction of PAKCEM Limited because on completion of the merger process it had ceased to exist. The entity which inherited the assets of the latter was the applicant i.e. Bestway Cement Limited. The petitioner company was, therefore, entitled to seek transfer of documents from the name of a non-existent juridical person i.e. PAKCEM Limited. By accepting the reasoning of the Authority this Court would be affirming acts to be done in a nonexistent juridical person. This would obviously not be tenable in law.

4. In view of the above discussion, the impugned order, dated 02.10.2018 is hereby set aside because it has been passed without correctly appreciating the scheme of law. The instant petition, therefore, stands allowed. The appeal filed by the petitioner company shall be treated as pending before the Authority. The latter after affording an opportunity of hearing to the parties is

expected to decide the same in accordance with law.

CHIEF JUSTICE

Saeed.