

**361 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.9332 of 2002
Date of Decision : 11.02.2015**

Subhash Chander

..... Petitioner

versus

Punjab State Electricity Board and another

..... Respondents

CORAM HON'BLE MR. JUSTICE K.KANNAN

- 1. Whether reporters of local newspaper may be allowed to see judgment?**
- 2. To be referred to reporters or not?**
- 3. Whether the judgment should be reported in the digest?**

Present: Mr. Puneet Jindal, Sr. Advocate with
Ms. Sakshi, Advocate
for the petitioner.

None for the respondent.

K.Kannan, J (Oral)

The petitioner brings a challenge to the order passed by the authority constituted under the Electricity Act finding that the domestic electricity connection established at the petitioner's house had been tampered with and the meter was also not properly running. The notice of disconnection, by demand of Rs.3,45,846/- was not paid within 24 hours. This notice issued on 14.07.2000 registers the calculation as having been done from the period 16.05.1994 to June, 2000.

The petitioner had raised an objection about the imputation of tampering of the meter and an observation that the meter was not running properly and that the counter in the meter registered only 1/10th of the actual consumption. In the appeal, the petitioner had raised his objection to the Chairman but the Zonal Level Dispute

Settlement Committee reiterated its demand contained in the notice. This was brought in a further appeal to the Dispute Settlement Authority, Patiala. The Authority observed in the course of its decision rendered in case No.645 of 2002 (Annexure P4) that the allegation of tampering of the meter could not be true and the meter was found to be intact. The Settlement Committee actually asked for a practical demonstration of the nature tampering that could have been done at all. It was not satisfied that the seal for the meter could have been tampered with and it accepted the plea of the petitioner that the officials had drawn up an adverse report only out of mala fides and on the failure of the petitioner to accommodate the inspecting staff's request for supply of some TV at the petitioner's shop at CSD Rates. The committee observed that:

“that the seals of the meter were O.K. And there was original counter gear fitted in the meter. Since, under the influence of the officers, to put a huge penalty, the counter gear was changed in the ME Lab, and for this reason, they got a false and fabricated report regarding tempering of meter seals, which were in fact intact and could not be proved as tempered during practical demonstration before the Authority during the proceedings took placed on 12.04.2002”.

However, towards conclusion of the same order, the committee took a contra position that the counter gears provided were different from that which was required in a meter of similar specification. It also stated that the counter gears themselves cannot be changed without tampering the ME seals and if the gears were found changed, it should have been right from the date of installation

before providing ME seals either by connivance or otherwise. It, therefore, concluded:-

“keeping in view the above that the counter gear was changed right from date of installation of the meter, the accounts be overhauled by multiplying the actual consumption by 9.75. The consumer be charged as per the applicable tariff from 16.05.1994 to 27.06.2000 after adjusting the amount already paid. Since the connivance of the consumer in changing the counter gear is not proved beyond doubt, no interest be charged”.

The learned Senior counsel appearing on behalf of the petitioner would contend that if there was no tampering of the meter possible and the original counter gear fitted in the meter alone could have been continued and the change was not possible, it was wrong in coming to a different conclusion that the counter gear must have been changed even at the time of installation and, therefore, the actual consumption was deliberately tampered with. The Senior Counsel would refer to the provisions of Section 26(6) of the Electricity Act 1910, which was applicable at the relevant time and the interpretation cast on the legal provision by the Supreme Court in M.P.E.B. and others Vs. Basanti Bai AIR 1998 Supreme Court (Pg 71). The Court was holding that if there is no tampering of the meter but the meter all the same registered a lower value, the Board cannot determine the electricity consumed but it should be left to the Electrical Inspector who has estimated the amount of energy supplied during such time and the charges shall be calculated for a period not exceeding 6 months. The counsel would, therefore, submit that if the meter had not been tampered, the Board could have only called upon the Electrical Inspector to make the assessment and called upon the petitioner to estimate the amount of energy supplied and make a fresh

demand in the manner contemplated under the Section.

One thing becomes clear that the tampering of the meter was found to be not true. It was also found that the counter gear could not have been changed without tampering with the ME seal. There was an observation that the counter gear, which was found, could not have been there in the particular meter of similar specification at the time of spot inspection and when a new meter was substituted to measure the actual electricity consumed, it was noticed that it registered an increase by 8% of what was already registered in the meter which was alleged to be tampered. In the normal situation, I would have left it to the Electrical Inspector to make an assessment in the manner laid down by the Supreme Court in the aforesaid decision in case of M.P.E.B. (supra). However, taking note of the fact, this issue relates to the period of inspection said to have been made in June 2000, I do not think any purpose will be served by causing a fresh inspection to be made and reassessed. The energy that could have been supplied to the consumer, I would find, that the petitioner had the benefit of the meter registering values less by about by 8% and therefore he should make up for that 8% additionally on the bill charged and that again I would restrict it for a period of 6 months for a period before June, 2000. In monetary terms it would mean that the amounts of bills for January 2000 to June 2000 should carry an addition of 8% and the amount paid. In this case the petitioner has already paid 2/3rd of the demand made through the notice issued on 14.07.2000 which means that he must have paid more than what he was legally bound to pay. In the view that I have taken, the impugned order cannot be sustained. It is quashed and the petitioner's liability shall be assessed in the manner indicated above and the excess amount paid shall be refunded to the petitioner with 18% interest in terms of the Regulation

147 within the period of 4 weeks. At the option of the petitioner, the amount paid already could be adjusted against future bills if such an option is exercised within the period of 4 weeks by the petitioner.

The writ petition is allowed on the above terms.

(K. KANNAN)
JUDGE

February 11, 2015
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