

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.16239 of 2003

Date of Decision.20.02.2015

Mukesh Kumar

.....Petitioner

Versus

DHBVNL and others

.....Respondents

2. CWP No.16322 of 2003

Ashok Kumar

.....Petitioner

Versus

DHBVNL and others

.....Respondents

Present: Mr. Sudhir Mittal, Advocate
for the petitioner.

Mr. Rajesh Hooda, Advocate for
Mr. Kamal Sehgal, Advocate
for the respondents.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. Both the writ petitions are connected and are being disposed of by a common order.
2. The petitioners' premises were raided on 19.09.2003 and it was imputed against the petitioners that there had been a theft of electrical energy. The proceedings were initiated under the Electricity (Supply) Act of 1948 which is brought in challenge before this Court on a plea that the Electricity Act of 2003 alone is applicable and the procedure to be followed under the relevant Regulations for theft of

energy has not been followed. This argument is placed on the basis that the Electricity Act of 2003 had come into force on 10.06.2003 and the alleged theft was said to have been detected on 19.09.2003. Consequently all the proceedings could have been taken only under that Act and since, 1948 Act had been repealed by the 2003 Act, a notice issued under the repealed Act is not competent and further proceedings that were taken were also incompetent.

3. The counsel appearing on behalf of the respondent would state that a notification was issued on 08.09.2003 suspending the operation of the Act for a period of six months from the appointed date which power was available to the State by virtue of transitional provisions contained under Section 172(d) of the Electricity Act of 2003. Since the notification had been issued on 08.09.2003 and the search itself was made only subsequent to the said date only on 19.09.2003, the provisions of the 2003 Act could not be invoked in view of the notification and they were entitled to proceed under the 1948 Act itself.

4. The counsel for the petitioner would state that this notification contemplated under Section 172 must have been issued before the date when the 2003 Act come into force since it had already repealed the 1948 Act and a notification issued subsequently could have no value. I will reject this argument for the only reason that the notification had been issued before the action was taken against the respondent complaining of theft. The petitioner has no case to contend that on the day when the alleged theft was detected, the Act was in force and was applicable and that there had been no notification issued.

The contention which is taken by the petitioner will apply only to situations when the act complained was prior to the notification issued by the Government and prior to the coming into force of the Act. We have already seen that the impugned action by the Electricity Board was taken subsequent to the notification suspending the operation of the Act and therefore, there was no error in the impugned action.

5. I will not find cause for an intervention. The writ petitions are dismissed.

(K. KANNAN)
JUDGE

February 20, 2015
Pankaj*