

CWP No.10313 of 2009

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

**CWP No.10313 of 2009
Date of decision:17.08.2015**

Usha Rani

...Petitioner

Versus

Punjab State Electricity Board

...Respondent

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Ajai Veer, Advocate,
for the petitioner.

Ms. Madhu Dayal, Advocate,
for the respondent.

Rakesh Kumar Jain, J.

The petitioner has challenged the order dated 04.03.2009 passed by the respondent.

In brief, the petitioner had purchased a house from Charanjit Kaur by registered sale deed dated 04.08.1992. There was an electricity connection No.JF-05/686H in the said house in the name of Surinder Pal, which was used by the petitioner. The electric meter was changed on 04.05.2000. The respondent disconnected the electricity connection on 11.10.2000 and raised a demand of ₹2,37,694/-. The petitioner assailed the action of the respondent before the District Consumer Disputes Redressal Forum, Ludhiana, wherein the Consumer Forum, vide its order dated 18.04.2001, set aside the demand notice and the amount deposited by the petitioner was ordered to be refunded. The respondent challenged that order

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in appeal before the State Consumer Disputes Redressal Commission, Punjab, Chandigarh, in which the following order was passed on 27.11.2001:-

“Both the counsel agreed that this is a case of lesser consumption. Instead of sending the bill to the complainant, the opposite party should have approached the Electrical Inspector for his decision. Both the counsel agree that the matter be sent to the Electrical Inspector for its final decision in accordance with law. The learned counsel for the appellant undertakes to restore the connection within a week from today.

In these circumstances, we allowed this appeal and set aside the order dated 18.04.2001 of the District Forum and send the matter to the Electrical Inspector for decision in accordance with law. Electrical Inspector shall decide the matter as expeditiously as possible.”

Thereafter, the Chief Electrical Inspector passed an order on 10.06.2008, holding that it was not a case of theft of energy and since the dispute falls within the ambit of Section 26(6) of the Indian Electricity Act, 1910 (hereinafter referred to as the “Act”), therefore, the demand of ₹2,37,694/- was illegal.

Aggrieved against the order dated 10.06.2008 passed by the Chief Electrical Inspector, the respondent filed an appeal under Section 36(2) of the Act. The said appeal has been allowed by the Commissioner

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(Appeals), Patiala Division, Patiala, on 04.03.2009, holding that since it was a case of theft of electricity, therefore, the Chief Electrical Inspector was not competent to decide the same as he can only decide those cases in which the dispute is regarding the speed of the meter as to whether it is running slow or fast.

Counsel for the petitioner has submitted that the impugned order dated 04.03.2009 passed by the Commissioner is contrary to the order passed by the State Consumer Disputes Redressal Commission, wherein counsel appearing on behalf of the respondent had categorically stated that it is a case of lesser consumption and also agreed that the matter may be sent to the Electrical Inspector for his final decision, in accordance with law. Thus, it is submitted that the matter was remitted by the State Consumer Disputes Redressal Commission to the Electrical Inspector to decide the same expeditiously.

Counsel for the respondent, however, has submitted that there is no error in the impugned order because the Appellate Authority, namely, the Commissioner (Appeals), has appreciated the evidence brought on record from which it is confirmed that all the four M.E. seals of the meter were tampered and current coil and main lock of the meter were also found short. Since the meter was found running slow by 87.24% due to commission of theft of energy by the consumer, therefore, it was not a case of slow speed.

After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that the impugned order is

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patently illegal and erroneous as it is totally in contrast with the order passed by the State Consumer Disputes Redressal Commission, where counsel for the respondent had categorically admitted that it is a case of lesser consumption and also agreed that the matter may be sent to the Electrical Inspector for his final decision. Had it been a case of theft, the respondent should have raised that issue in appeal before the Consumer Commission, but at that time the respondent was satisfied that it is a case only of slow consumption, which falls within the jurisdiction and ambit of the Electrical Inspector to decide and the Electrical Inspector much-less the Chief Electrical Inspector has categorically held that it is not a case of theft of energy.

Thus, in view of these facts and circumstances, the respondent, in appeal, should not have given a new finding over and above the decision taken by the State Consumer Disputes Redressal Commission, wherein the respondent has categorically set up a case of lesser consumption of energy and remitted it to the jurisdiction of the Electrical Inspector, who is competent to decide the lis between the parties in view of Section 26(6) of the Act.

In view thereof, the present writ petition is hereby allowed and the impugned order dated 04.03.2009 passed by the respondent is set aside.

August 17, 2015
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(Rakesh Kumar Jain)
Judge