

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

CWP-24708-2012

Date of decision : 08.09.2015

Punjab State Power Corporation Limited & others
..... Petitioners

Vs

Nagar Panchayat, Dhilwan, District Kapurthala & another
..... Respondents

Coram : Hon'ble Mr. Justice Rakesh Kumar Jain

Present : Mr. B.S. Taunque, Advocate
for the petitioners.

Ms. Jasvir Kaur, Advocate
for respondent No.1.

Rakesh Kumar Jain, J. (oral)

This petition is directed against the order dated 17.7.2012 (Annexure P-1) passed by the Sub Divisional Magistrate/Assistant Collector Ist Class, Kapurthala.

Counsel for the petitioners has submitted that the impugned order does not contain any reason as it is based upon some statement of one Lower Division Clerk of the petitioner-Corporation who had allegedly stated that it is not a case of theft but of overload. It is submitted that the load of the electricity was sanctioned to respondent No.1 for water supply but it was otherwise used for the street lights. It is submitted that as per Section 135(e) of the Electricity Act, 2003 the respondent is guilty of theft of electricity and it is not a case of overload. It is also submitted that all these aspects have not been considered by the concerned authority while passing the impugned order.

On the other hand, learned counsel for respondent No.1 has submitted that they have never used the sanctioned load of electricity for any other purpose.

Be that as it may, the impugned order is silent in this regard and it is based solely upon on the statement of one Lower Division Clerk who alleged to have appeared on behalf of the Electricity Department.

After hearing learned counsel for the parties and going through material available on record, I am of the considered opinion that the impugned order is passed without application of mind and without assigning any reason. In these circumstances, the impugned order is set aside and the case is remanded back to the same authority for deciding it afresh, after affording opportunity of hearing to both the parties. Needless to say that the said authority shall decide the issue by giving cogent reasoning. The parties are directed to appear before the competent authority on 5.10.2015.

(Rakesh Kumar Jain)
Judge

08.09.2015
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