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

1. CWP No.13209 of 2013
Ramesh Chand
....Petitioner
Versus
Uttar Haryana Bijli Vitran Nigam Limited and Ors.
...Respondents
And
2. CWP No.22308 of 2013
Surinder Kumar
....Petitioner
Versus
Uttar Haryana Bijli Vitran Nigam Limited and Ors.
...Respondents
And

3. CWP No.23592 of 2013

Narender Kumar Singhal
....Petitioner
Versus
Uttar Haryana Bijli Vitran Nigam Limited and Ors.
...Respondents
And
4. CWP No.2749 of 2014
Kashmir Singh
....Petitioner
Versus
Uttar Haryana Bijli Vitran Nigam Limited and Ors.
...Respondents
And

5. CWP No.808 of 2014

Ram Rattan Sharma
....Petitioner
Versus
Uttar Haryana Bijli Vitran Nigam Limited and Ors.
...Respondents

Date of Order: 19.01.2016

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr. J.K. Goel, Advocate for the petitioner(s).
(for the petitioner in CWP No.13209/2013).

Mr. Arvind Bansal, Advocate for

Mr. Siddharth Gulati, Advocate for the petitioner(s).
(in CWP No.808/2014).

Mr. Rajinder Goyal, Advocate for the petitioner (s).
(in CWP No.2749/2014 and CWP No.23592 of 2013).

Mr. Arvind Kashyap, Advocate for the petitioner (s).
(in CWP No.22308/2013).

Mr. P.S. Poonia, Advocate for the respondents.

RAKESH KUMAR JAIN, J (ORAL)

This order shall dispose of aforesaid five writ petitions bearing CWP No.13209 of 2013, CWP No.22308 of 2013, CWP No.23592 of 2013, CWP No.2749 of 2014 and CWP No.808 of 2014 as the issue involved in all is the same. However, for the sake of convenience, the facts are being extracted from CWP No.13209 of 2013.

In short, the petitioner has challenged the order dated 28.05.2013 (Annexure P.3) purported to have been passed as final order of assessment in terms of Section 125 of the Electricity Act, 2003 (for brevity "the Act") and the notice of the same date, which has been issued under Section 135 read with Section 152 of the Act, asking the petitioner to compound the offence, if he so desires.

Learned counsel for the petitioner has submitted that in the case of a suspected theft, the respondent is obliged to issue a show cause notice whereas in this case, no show cause notice was issued to the petitioner. In this regard, he has relied upon Instructions/Circular No.54/2007 issued by the respondent-Corporation. It is argued that the assessment made by the respondents of the amount of ₹11,66,650/- under Section 135 of the Act is in violation of Section 154 (5) of the Act as according to him, assessment could have been made only by the Special Court, which is constituted under Section 153 of the Act. It is further submitted that the remedy of compounding is still available to the petitioner even if he has been held guilty by the Special Court of committing the theft of electricity. It is alleged that the assessment of the amount to be paid by the petitioner has to be in terms of Section 126 of the Act and that too after giving show cause notice to the petitioner but in the present case, no formula has been disclosed by the respondents as to on what basis, the assessment has been made of the amount of ₹11,66,650/-.

Learned counsel for the respondents has submitted that Sections 126 and 135 of the Act operate in different fields as Section 126 deals with over-consumption of the electricity whereas Section 135 of the Act deals with the theft of electricity. It is further submitted that even in the case of theft of electricity, there are two situations, firstly where theft is writ large and secondly where the theft is suspected. It is argued that in case of theft of electricity, where it is writ large, no opportunity of hearing is required to be given but where it is suspected, opportunity of hearing is given as provided in the Instruction/Circular No.54 of 2007. It is also contended that before the consumer is proceeded against, in terms of the Code of Criminal Procedure, 1973, before the Special Court, which has jurisdiction to impose both physical and fiscal punishment i.e the imprisonment and also the fine, determining the civil liability of the consumer, opportunity is given to the consumer to compound the offence as per provisions of Section 152 of the Act. It is further submitted that in the case of the petitioner, the assessment has been made of the amount in terms of Section 135 read with Section 154 (5) of the Act and notice was given to him for compounding the offence under Section 152 of the Act as per formula provided in that provision.

Learned counsel for the petitioner has relied upon a decision of Hon'ble Supreme Court in the case of **Executive Engineer, Southern Electricity Supply Company of Orissa Limited (Southco) and Another Vs. Sri Seetaram Rice Mill, (2012) 2 Supreme Court Cases 108.** He has also relied upon a Division Bench judgment of Patna High Court reported as **Mosmat Swaran @ Swaran Manraw Vs. The State of Bihar, 2012 (6) RCR (Criminal) 2422**.

Shri Rajinder Goyal, learned counsel appearing for the petitioner in CWP No.23592 of 2013 has argued that the respondents have themselves attached the proforma, in the case of assessment of the charges to be paid, in case of theft, under Section 135 of the Act in which a provision of opportunity of hearing is also there whereas in his case, no opportunity of hearing was given before assessment.

In this regard, learned counsel for the respondents has submitted that as per the checking report, the petitioner has been found committing theft of electricity directly from the Pole, therefore, it was not a case of suspected theft, rather it was a case of theft, which was writ large, therefore, there is no question of providing him opportunity of hearing and in this regard, learned counsel for the respondents has also referred to the Annexure attached with the reply, where, in the case of suspected theft, provision for opportunity of hearing is there.

I have heard learned counsel for the parties and examined the record.

From the facts and circumstances narrated hereinabove, questions involve in this case, which require adjudication, are as under:

> (i) Whether in case of theft, the consumer requires an opportunity of hearing or opportunity of hearing is only given in the case of suspected theft?
>
> (ii) Whether the assessment under Section 135 of the Act has to be carried out in terms of Section 126 of the Act or in terms of Section 154 (5) of the Act as has been done by the respondents in this case?

In order to answer the aforesaid questions, it would be relevant to refer to Sections 126,135, 152 and 154 of the Act, which read thus:

> *"126. **Assessment.**-(1) If on an inspection of any place or premises or after inspection of the equipments, gadgets, machines, devices found connected or used, or after*

inspection of records maintained by any person, the assessing officer comes to the conclusion that such person is indulging in unauthorized use of electricity, he shall provisionally assess to the best of his judgement the electricity charges payable by such person or by any other person benefited by such use.

(2) The order of provisional assessment shall be served upon the person in occupation or possession or in charge of the place or premises in such manner as may be prescribed.

(3) The person, on whom an order has been served under subsection (2) shall be entitled to file objections, if any, against the provisional assessment before the assessing officer, who shall, after affording a reasonable opportunity of hearing to such person, pass a final order of assessment within 30 days from the date of service of such order of provisional assessment, of the electricity charges payable by such person.

(4) Any person served with the order of provisional assessment, may, accept such assessment and deposit the assessed amount with the licensee within seven days of service of such provisional assessment order upon him.

(5) If the assessing officer reaches to the conclusion that unauthorised use of electricity has taken place, the assessment shall be made for the entire period during which such unauthorised use of electricity has taken place and if, however, the period during which such unauthorized use of electricity has taken place cannot be ascertained, such period shall be limited to a period of twelve months immediately preceding the date of inspection.

(6) The assessment under this section shall be made at a rate equal to twice the tariff rates applicable for the relevant category of services specified in sub-section (5).

Explanation.*- For the purposes of this section,-*

(a) " assessing officer" means an officer of a State Government or Board or licensee, as the case may be, designated as such by the State Government;

(b) " unauthorised use of electricity" means the usage of

electricity –

(i) by any artificial means; or

(ii) by a means not authorised by the concerned person or authority or licensee; or

(iii) through a tampered meter; or

(iv) for the purpose other than for which the usage of electricity was authorised; or

(v) for the premises or areas other than those for which the supply of electricity was authorised.

***135. Theft of electricity.**- (1) Whoever, dishonestly, --*

(a) taps, makes or causes to be made any connection with overhead, underground or under water lines or cables, or service wires, or service facilities of a licensee or supplier, as the case may be; or

(b) tampers a meter, installs or uses a tampered meter, current reversing transformer, loop connection or any other device or method which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in a manner whereby electricity is stolen or wasted; or

(c) damages or destroys an electric meter, apparatus, equipment, or wire or causes or allows any of them to be so damaged or destroyed as to interfere with the proper or accurate metering of electricity: or

(d) uses electricity through a tampered meter; or

(e) uses electricity for the purpose other than for which the usage of electricity was authorised,

so as to abstract or consume or use electricity shall be punishable with imprisonment for a term which may extend to three years or with fine or with both;

Provided that in a case where the load abstracted, consumed, or used or attempted abstraction or attempted consumption or attempted use -

(i) does not exceed 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction the fine imposed shall not be less than six times the financial gain on account of such theft of electricity;

(ii) exceeds 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction, the sentence shall be imprisonment for a term not less than six months but which may extend to five years and with fine not less than six times the financial gain on account of such theft of electricity:

Provided further that in the event of second and subsequent conviction of a person where the load abstracted, consumed, or used or attempted abstraction or attempted consumption or attempted use exceeds 10 kilowatt, such person shall also be debarred from getting any supply of electricity for a period which shall not be less than three months but may extend to two years and shall also be debarred from getting supply of electricity for that period from any other source or generating station:

Provided also that if it is proved that any artificial means or means not authorized by the Board or licensee or supplier as the case may be, exist for the abstraction, consumption or use of electricity by the consumer, it shall be presumed, until the contrary is proved, that any abstraction, consumption or use of electricity has been dishonestly caused by such consumer.

(1A) Without prejudice to the provisions of this Act, the licensee or supplier, as the case may be, may, upon detection of such theft of electricity, immediately disconnect the supply of electricity:

Provided that only such officer of the licensee or supplier, as authorised for the purpose by the Appropriate Commission or any other officer of the licensee or supplier, as the case may be, of the rank higher than the rank so authorised shall disconnect the supply line of electricity:

Provided further that such officer of the licensee or supplier, as the case may be, shall lodge a complaint in writing relating to the commission of such offence in *police station having jurisdiction within twenty four hour from the time of such disconnect:*

Provided also that the licensee or supplier, as the case may be, on deposit or payment of the assessed amount or electricity charges in accordance with the provisions of this Act, shall, without prejudice to the obligation to lodge the complaint as referred to in the second proviso to this clause, restore the supply line of electricity within forty-eight hours of such deposit or payment;

(2) Any officer of the licensee or supplier as the case may be, authorized in this behalf by the State Government may

(a) enter, inspect, break open and search any place or premises in which he has reason to believe that electricity [has been or is being] used unauthorisedly;

(b) search, seize and remove all such devices, instruments, wires and any other facilitator or article which [has been or is being], used for unauthorized use of electricity;

(c) examine or seize any books of account or documents which in his opinion shall be useful for or relevant to, any proceedings in respect of the offence under sub-section (1) and allow the person from whose custody such books of account or documents are seized to make copies thereof or take extracts therefrom in his presence.

(3) The occupant of the place of search or any person on his behalf shall remain present during the search and a list of all things seized in the course of such search shall be prepared and delivered to such occupant or person who shall sign the list:

Provided that no inspection, search and seizure of any domestic places or domestic premises shall be carried out between sunset and sunrise except in the presence of an adult male member occupying such premises.

(4) The provisions of the Code of Criminal Procedure, 1973, relating to search and seizure shall apply, as far as may be, to searches and seizure under this Act.

152. Compounding of offences.- *(1) Notwithstanding* *anything contained in the Code of Criminal Procedure 1973, the Appropriate Government or any officer authorized by it in this behalf may accept from any consumer or person who committed or who is reasonably suspected of having committed an offence of theft of electricity punishable under this Act, a sum of money by way of compounding of the offence as specified in the Table below:*

TABLE

Nature of Service	Rate at which the sum of money for Compounding to be collected per Kilowatt(KW)/Horse Power(HP) or part thereof for Low Tension (LT) supply and per Kilo Volt Ampere (KVA) of contracted demand for High Tension (HT)
(1)	(2)
1. Industrial Service	twenty thousand rupees;
2. Commercial Service	ten thousand rupees;
3. Agricultural Service	two thousand rupees;
4. Other Services	four thousand rupees:

Provided that the Appropriate Government may, by notification in the Official Gazette, amend the rates specified in the Table above.

(2) On payment of the sum of money in accordance with sub-section (1), any person in custody in connection with that offence shall be set at liberty and no proceedings shall be instituted or continued against such consumer or person in any criminal court.

(3) The acceptance of the sum of money for compounding an offence in accordance with sub-section (1) by the Appropriate Government or an officer empowered in this behalf shall be deemed to amount to an acquittal within the meaning of section 300 of the Code of Criminal Procedure, 1973.

(4) The Compounding of an offence under sub-section (1) shall be allowed only once for any person or consumer.

***154. Procedure and power of Special Court.**-(1) Notwithstanding anything contained in the Code of*

Criminal Procedure, 1973, every offence punishable under sections 135 to 140 and Section 150 shall be triable only by the Special Court within whose jurisdiction such offence has been committed.

(2) Where it appears to any court in the course of any inquiry or trial that an offence punishable under sections 135 to 140 and Section 150 in respect of any offence that the case is one which is triable by a Special Court constituted under this Act for the area in which such case has arisen, it shall transfer such case to such Special Court, and thereupon such case shall be tried and disposed of by such Special Court in accordance with the provisions of this Act :

Provided that it shall be lawful for such Special Court to act on the evidence, if any, recorded by any court in the case of presence of the accused before the transfer of the case to any Special Court

Provided further that if such Special Court is of opinion that further examination, cross-examination and re-examination of any of the witnesses whose evidence has already been recorded, is required in the interest of justice, it may resummon any such witness and after such further examination, cross-examination or re-examination, if any, as it may permit, the witness shall be discharged.

(3) The Special Court may, notwithstanding anything contained in subsection (1) of section 260 or section 262 of the Code of Criminal Procedure, 1973, try the offence referred to in sections 135 to 140 and Section 150 in a summary way in accordance with the procedure prescribed in the said Code and the provisions of sections 263 to 265 of the said Code shall, so far as may be, apply to such trial :

Provided that where in the course of a summary trial under this subsection, it appears to the Special Court that the nature of the case is such that it is undesirable to try such case in summary way, the

> *Special Court shall recall any witness who may have been examined and proceed to re-hear the case in the manner provided by the provisions of the said Code for the trial of such offence:*
>
> *Provided further that in the case of any conviction in a summary trial under this section, it shall be lawful for a Special Court to pass a sentence of imprisonment for a term not exceeding five years.*

(4) A Special Court may, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to, any offence tender pardon to such person on condition of his making a full and true disclosure of the circumstances within his knowledge relating to the offence and to every other person concerned whether as principal or abettor in the commission thereof, and any pardon so tendered shall , for the purposes of section 308 of the Code of Criminal Procedure,1973, be deemed to have been tendered under section 307 thereof.

(5) The [Special Court shall] determine the civil liability against a consumer or a person in terms of money for theft of energy which shall not be less than an amount equivalent to two times of the tariff rate applicable for a period of twelve months preceding the date of detection of theft of energy or the exact period of theft if determined which ever is less and the amount of civil liability so determined shall be recovered as if it were a decree of civil court.

(6) In case the civil liability so determined finally by the Special Court is less than the amount deposited by the consumer or the person, the excess amount so deposited by the consumer or the person, to the Board or licensee or the concerned person, as the case may be, shall be refunded by the Board or licensee or the concerned person, as the case may be, within a fortnight from the date of communication of the order of the Special Court together with interest at the prevailing Reserve Bank of India prime lending rate for the period from the date of such deposit till the date of payment.

> ***Explanation.*** *- For the purposes of this section, " civil liability" means loss or damage incurred by the Board or licensee or the concerned person, as the case may be, due to the commission of an offence referred to in [sections 135 to 140 and section 150]."*

It has been decided by this Court in CWP No.25585 of 2013 titled Rajinder Kumar and another Vs. Uttar Haryana Bijli Vitran Nigam Limited and others on 07.1.2016 that Sections 126 and 135 of the Act operate in different fields. Section 126 is invoked in case of over-consumption of electricity whereas Section 135 of the Act is invoked in case of theft of electricity. In this regard, in order to reach to this conclusion, this Court had relied upon the decision in Sri Seetaram Rice Mill's case (supra). Relevant portion of that judgment is reproduced as under:

> *"The officer is also under obligation to serve a noticein terms of Section 126 (3) of the 2003 Act upon any such consumer requiring him to file his objections, if any, against the provisional assessment before a final order of assessment is passed within thirty days from the date of service of such order of provisional assessment. Thereafter, any person served with the order of provisional assessment may accept such assessment and deposit the amount with the licensee within seven days of service of such provisional assessment under upon him or prefer an appeal against the resultant final order under Section 127 of the 2003 Act. The order of assessment under Section 126 and the period for which such order would be passed has to be in terms of sub-sections (5) and (6) of Section 126 of the 2003 Act. The*

Explanation to Section 126 is of some significance, which we shall deal with shortly hereinafter. Section 126 of the 2003 Act falls under Part XII and relates to investigation and enforcement and empowers the assessing officer to pass an order of assessment.

Section 135 of the 2003 Act deals with an offence of theft of electricity and the penalty that can be imposed for such theft. This squarely falls within the dimensions of criminal jurisprudence and mens rea is one of the relevant factors for finding a case of theft. On the contrary, Section 126 of the 2003 Act does not speak of any criminal intendment and is primarily an action and remedy available under the civil law. It does not have features or elements which are traceable to the criminal concept of mens rea.

Thus, it would be clear that the expression "unauthorised use of electricity" under Section 126 of the 2003 Act deals with cases of unauthorised use, even in the absence of intention. These cases would certainly be different from cases where there is dishonest abstraction of electricity by any of the methods enlisted under Section 135 of the 2003 Act. A clear example would be, where a consumer has used excessive load as against the installed load simpliciter and there is violation of the terms and conditions of supply, then, the case would fall under Section 126 of the 2003 Act. On the other hand, where a consumer, by any of the means and methods as specified under Sections 135 (a) to 135 (e) of the 2003 Act, has abstracted energy with dishonest intention and *without authorisation, like providing for a direct connection bypassing the installed meter, the case would fall under Section 135 of the Act.*

Therefore, there is a clear distinction between the cases that would fall under Section 126 of the 2003 Act on the one hand and Section 135 of the 2003 Act on the other. There is no commonality between them in law. They operate in different and distinct fields. The assessing officer has been vested with the powers to pass provisional and final order of assessment in cases of unauthorised use of electricity and cases of consumption of electricity beyond contracted load will squarely fall under such power. The legislative intention is to cover the cases of malpractices and unauthorised use of electricity and then theft which is governed by the provisions of Section 135 of the 2003 Act.

Section 135 of the 2003 Act significantly uses the words "whoever, dishonestly" does any of the listed actions so as to abstract or consume electricity would be punished in accordance with the provisions of the 2003 Act. "Dishonesty" is a state of mind which has to be shown to exist before a person can be punished under the provisions of that section.

Once, it is decided by this Court that Sections 126 and 135 of the Act operate in different fields, then question would be as to whether the petitioner is entitled to be given show cause notice in a case of theft, if it is not a suspected theft. The petitioners in **Rajinder Kumar's case (supra)** has also argued the same point alleging that the assessment has to be made even in a case of theft of electricity, which is invoked under Section 135 of the Act and is invoked in terms of Section 126 of the Act, wherein there is provision for granting an opportunity of hearing before finalizing the amount, which is to be charged as Section 126 (2) talks of provisional assessment and Section 126 (3) talks of final assessment.

In view thereof, I am of the considered opinion that provisions of Section 126 of the Act cannot be applied for the purpose of assessment of amount, which is to be charged for theft of electricity. So far as the question of notice is concerned, it is provided in the Instructions, which has been relied by the petitioner, that "In the case of suspected theft (broken/tampered/false seals of meter and/or metering cubicle/cut in incoming PVC Cable or any other instance where evidence is not available at site", and the following directions have been issued by the respondent-Corporation, which read as under:

> *"(a) In the cases of suspected theft, the inspection team shall not disconnect the supply and shall restore the supply through a new meter of appropriate rating after sealing the original metering equipments at site by Johnson's paper seals. After inspection, the authorized inspecting officer shall prepare a checking report giving details such as connected load/MDI, conditions of seals, working of meter and mention other irregularities noticed during checking. If needed,*

AIO shall remove the meter and put it in a properly sealed cardboard box in presence of consumer or his representative which shall be duly signed by checking team and consumer. Seizure memo would also be prepared. The AIO shall record the particulars of the same in the report before sealing and taking the meter/seals/metering equipments for testing in M&T lab as per clause (d) or any other agency. The report must be signed by each member of the joint team.

(b) The consumer shall be served within 2 working days a notice (Annexure-II) signed by senior most officer of the inspecting team at the site as to why the case of theft of electricity should not be framed against him/her. The notice should clearly state the time, date and place at which the reply has to be submitted and the name of the designated officer to whom it should be addressed. The notice must be handed over to the consumer or his/her representative at site immediately under proper receipt. In case of refusal by the consumer or his/her representative to either accept or give a receipt, a copy of each must be pasted at a conspicuous place in/outside the premises. Simultaneously, the joint report and the notice shall be sent to the consumer under Registered Post. ***The designated officer for the above purpose shall be SE 'OP' for the CT/PT meters and XEN 'OP' for Whole Current Meter.***

The consumer is at liberty to represent to the designated officer within 3 days from the date of receipt of notice.

(c) Within 4 working days from the date of submission of consumers' reply, if made within

prescribed period, the designated officer shall give a personal hearing to the consumer, if request in this regard has been received from consumer. After due consideration of the matter, the designated officer shall pass a detailed order within 15 days from the date of personal hearing or receipt of reply, as the case may be (Annexure-III) as to whether the case of suspected theft of Electricity is established or not. The order shall contain the brief of inspection report, submissions made by consumer in his written reply and during personal hearing and reasons for acceptance or rejections of the same and the amount of assessment, period of assessment as per clause-III.

(d) ***Testing of meter/seals/metering equipment:-*** *In cases of suspected Theft of Electricity through tampering of meters or metering equipments or seals, the meter/metering equipments shall be taken out from the premises in a sealed box duly witnessed by the consumer, for requisite testing in the M&T laboratories. The designated officer shall issue a letter to the consumer at least one week in advance, informing him about the date of meter testing, and requesting him to attend the same. If the consumer is not present during the testing on the scheduled date, the testing shall be carried out in the presence of the two officers of the Nigam not connected with the inspection.*

(e) Further, in case of suspected theft of electricity, if consumption pattern for last one year is reasonably uniform and is not less than 75% of the assessed consumption as per clause-III, no further proceedings shall be taken and the decision

> *shall be communicated to the consumer under proper receipt within 3 working days and connection shall be restored through original meter.*
>
> *(f) Where it is established that there is a case of theft of Electricity, then the procedure as prescribed under Clause-(II)(12)(A)(c to g) shall be followed."*

There is no dispute about this that in the case, where there is suspicion about theft, opportunity of hearing has to be given as admitted by learned counsel for the respondents himself and also it is clear from the Instructions but where it is a case of established theft as in the present case, where allegations against the petitioner has been proved vide letter dated 28.5.2013, in which, it has been held that the petitioner has been found indulging in theft of electricity and it was not a case of suspected theft because meter was found dead stop and wire was found soldered in the counter circuit after breaking the lock of counter. Thus, the first question is answered to the effect that in the case of suspected theft, opportunity of hearing has to be given but for the theft, which is writ large, as admitted by learned counsel for the respondents, no opportunity is required to be given. So far as the question with regard to assessment is concerned, I am in agreement with learned counsel for the respondents, who has submitted that formula is being used in terms of Section 154 (5) of the Act, in which, it is provided that the theft of energy shall not be less than the amount equivalent to two times of the tariff rate applicable for a period of twelve months preceding the date of detection of theft of energy or the exact period of theft if determined which ever is less.

Since I have already held that Section 126 of the Act cannot be applied in case of theft, therefore, formula, which has been applied by the respondent under Section 154 (5) of the Act is correct formula, which also depends upon the final adjudication of the case. So far as Section 152 of the Act in respect of compounding of the offence is concerned, it is applied in both the cases, where there is theft and is suspected theft. Consequently, on the basis of this formula, the petitioner has been served with the notice and it is for him to accept or reject the said notice because in case, he accepts notice, he may not have to face trial before the Special Court but if he does not accept the notice issued by the respondents, he will make himself liable to punishment, which may be ultimately imposed by the Special Court along with fine.

In view of the aforesaid, questions posed in the beginning are answered and keeping in view the facts and circumstances of the present case as narrated hereinabove, present petitions are dismissed.

January 19, 2016 **(RAKESH KUMAR JAIN)**
manoj **JUDGE**