

Sr. No.135

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

**CWP No. 13701 of 2016(O&M)
Date of decision:29.08.2016**

Dharambir

.....Petitioner

versus

Director DHBVN and others

.....Respondents

Coram: Hon'ble Mr.Justice Rakesh Kumar Jain

Present: Mr. Rajesh Garg, Sr. Advocate with
Mr. Rakesh Dhiman, Advocate
for the petitioner.

Rakesh Kumar Jain, J.(Oral)

This petition is filed against the action proposed by the respondents under Section 135 of the Electricity Act, 2003(for short, 'the Act') on the basis of checking report(Annexure P-1) as per which the petitioner was found taking electricity supply directly from the pole. The relevant part of it is “*direct supply taken from main incoming PVC cut made by Non Consumer with the help of 2/C PVC 8 Mtr long and connected with temp Power Plug and one Mu Compressor working.*”

The argument raised by counsel for the petitioner is that the respondents have straight way started proceedings under Section 135 of the Act and issued notice under Section 152 of the Act according to which the petitioner can compound the offence by paying the amount assessed by the respondent, without providing any opportunity to the petitioner to contest the liability imposed upon him, which is otherwise permissible if the proceedings have been carried out under Section 126 of the Act. It is also submitted that the allegation against the petitioner makes out a case under Section 126 for the Act for which petitioner has to be given a notice before

the final assessment is made.

I have heard learned counsel for the petitioner and after examining the available record, am of the considered opinion that the allegation against the petitioner tantamounts to theft in terms of Section 135 (1)(a) of the Act and as per the scheme of the Act, at the first instance, the offender is given the liberty to compound the offence without going for the trial and in case he does not want to avail that remedy, he may avail his remedy under Section 154 of the Act by filing a suit before the special court, challenging the action of the respondents on the basis of which penalty has been imposed upon the petitioner.

In view of the aforesaid, I do not agree with the contention raised by counsel for the petitioner as the petitioner has a remedy under Section 154 of the Act.

Disposed of.

29th August, 2016

Shivani Kaushik

**[Rakesh Kumar Jain]
Judge**

Whether Speaking/reasoned

Yes/No

Whether Reportable

Yes/No