

CWP No.17270 of 2015

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

CWP No.17270 of 2015
Date of decision: 14.03.2016

Rajinder Singh

....Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Ltd. and others

....Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH DHALIWAL

- 1) Whether Reporters of the 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 ?

Present: - Mr. Sukhvinder Singh Nara, Advocate, for the petitioner.
Mr. Anil Chawla, Advocate, for the respondents.

PARAMJEET SINGH DHALIWAL, J. (ORAL)

Instant writ petition under Article 226 of the Constitution of India has been filed for issuance of a writ in the nature of *mandamus* to respondent No.2 to decide the statutory appeal dated 27.07.2015 (Annexure P-10) under Section 127 of the Electricity Act, 2003 (for short 'the Act') filed by the petitioner against final assessment order dated 05.06.2015 passed by respondent No.4 for offence of theft under Section 135 of the Act, and quashing the order dated 29.07.2015 (Annexure P-11) whereby the appeal filed by the petitioner has been returned by respondent No.2.

Brief facts of the case are that petitioner is running an *Aata Chakki* (flour mill) at Village Nanhera, Tehsil Naraingarh, District Ambala, and has been assigned electricity consumer account

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No.AM4-10, which falls in the category of 'SP' having sanctioned load and contract demand of 15 kw. To measure the use/consumption of electricity, meter has been installed. Premises of the petitioner were raided by respondent No.4 on 18.02.2015 and checking report LL1 was prepared. The said connection was checked in the presence of the son of the petitioner, namely, Kamal Saini and meter was found to be tampered with. After checking of the meter in the laboratory, final assessment was carried out and for theft of electricity under section 135 of the Act a penalty of ₹4,05,476/- was imposed upon the petitioner. Petitioner deposited 50% of the amount of penalty and preferred an appeal under Section 127 of the Act before respondent No.2. However, the appeal has been returned by respondent No.2 on 29.07.2015 on the ground that he is authorized only for adjudicating upon the cases of unauthorized use of electricity. Hence, this writ petition.

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

Perusal of checking report shows that two seals were found to be tampered with and re-fixed with adhesives, which clearly falls within the purview of Section 135 of the Act.

This Court has already dealt with similar issue in ***Satyabir Goyal v. Dakshin Haryana Bijli Vitran Nigam and others***, 2016(1) R.C.R. (Civil) 514, wherein distinction between Sections 126 and 135 of the Act has been clearly made with reference to various judgments of the Hon'ble Supreme Court. In case, petitioner is aggrieved against the

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assessment he can proceed before the Special Court for the purpose of filing of appeal. Present petition is not sustainable in the eyes of law. Petitioner should have proceeded as per Sections 135 and 154 of the Act.

Dismissed. However, petitioner will be at liberty to proceed in accordance with law.

(Paramjeet Singh Dhaliwal)
Judge

March 14, 2016
R.S.