

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

**CWP No.17719 of 2016
Date of decision: 10.11.2016**

Punjab State Power Corporation Ltd. and others

... Petitioners

Vs.

Balbir Singh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Ms. Meena Bansal, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK, J. (ORAL)

Present writ petition is directed against the order dated 20.01.2016 (Annexure P-12) passed by the appellate authority under Section 126 of the Electricity Act, 2003, whereby appeal of the consumer against the final assessment order, was allowed.

Heard learned counsel for the petitioners.

The only argument raised by learned counsel for the petitioners is that the appellate authority dealt with only one issue regarding the unauthorized use of electricity by respondent No.1-consumer, whereas another allegation against him was that he was using the non-power incentive connection for the purpose of power incentive type connection. However, when learned counsel for the petitioner was confronted with the final assessment order (Annexure P-9), which was subject matter of appeal before respondent No.2, she had no

answer and rightly so, it being a matter of record.

In fact, a bare perusal of the final assessment order (Annexure P-9) would show that this issue regarding allegation against consumer that he was using the non-power incentive connection as power incentive connection, was not even remotely referred or made a ground for arriving at the final assessment, while passing the final assessment order (Annexure P-9).

A bare reading of the impugned order (Annexure P-12) passed by the appellate authority would further make it crystal clear that the impugned order has been passed as per commercial circular 19/2012 issued by the office of Chief Engineer/Commercial, PSPCL, Patiala. Once the final assessment order (Annexure P-9), which was under challenge in the appeal before the appellate authority-respondent No.2, was found in violation of the commercial circular 19/2012 issued by the petitioners themselves, the appellate authority committed no error of law, while passing the impugned order and the same deserves to be upheld, for this reason also.

Another argument raised by learned counsel for the petitioners was that the appeal of respondent No.1 before the appellate authority-respondent No.2 was time barred. This argument raised by learned counsel for the petitioners was duly considered but found wholly misplaced, for the reason that once the appellate authority has found substance in the plea raised by the consumer on merits of the case, the appeal was rightly entertained and decided on merits.

It is the settled principle of law that the Courts of law must make an endeavour to decide the lis between the parties on merits of the case, instead of technicalities, including delay, until and unless it has been found to be very

extraordinary long delay, which is not the pleaded case. Having said that, this Court feels no hesitation to conclude that the appellate authority was well within its jurisdiction to pass the impugned order and the same deserves to be upheld, for this reason as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that present writ petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, present writ petition stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

10.11.2016
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No