

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.21052 of 2016
Date of decision: 06.10.2016

Punjab State Power Corporation Ltd., Patiala and others

... Petitioners

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Hitesh Pandit, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK, J. (ORAL)

Present writ petition is directed against the order dated 31.12.2012 (Annexure P-1) passed by Sub Divisional Magistrate, Bhulath, District Kapurthala, whereby petition filed by respondent No.3 Smt. Sarabjit Kaur was allowed, setting aside the assessment order prepared by officers of the petitioner.

Heard learned counsel for the petitioners.

It is a matter of record that the electric connection installed at the house of respondent No.2, wherein respondent No.3 was residing, was checked on 09.08.2009 at 09.15 PM by Junior Engineer Rakesh Kumar, Balwinder Singh, Lineman and Bhupinder Singh, Assistant Lineman. All these three officials were found drunk. In such a situation, it can be well imagined that what kind of assessment report, they would have prepared. Feeling genuinely aggrieved, the consumer-respondent No.3 filed her petition before Sub Divisional Magistrate,

who gave numerous opportunities to the petitioners but they proceeded on a most casual approach and did not appear before the competent authority. Finally, the order dated 02.12.2009 was passed in favour of the consumer-respondent No.3 and against the petitioners.

Thereafter, petitioners moved the same authority for getting the abovesaid order dated 02.12.2009 set aside. However, after issuing notice to the consumer, applicants, petitioners herein, again stopped appearing before the competent authority who, having been left with no other option, ultimately passed a self-contained order dated 31.12.2012 (Annexure P-1). The relevant operative part of the impugned order (Annexure P-1), which deserves to be noticed herein, reads as under: -

“After going through the proof submitted by applicant and the record on file submitted by the respondent department I felt that as per Punjab Government' said gazette notification dated 27th July, 2007 at Para No.37(b) that such inspection team should carry their identity card. There is no reference made in the history sheet sent by the department about such identity card shown to the owner of the house. Although, Sarabjit Kaur have stated in her statement they were alone at home. It was night and time 9.00 PM. The reference should be made in the history sheet for department authorizing such officer for checking team which was not shown. As per this notification Para no.37.1 sub Para No.(d) authorized officer will record at the spot and if possible will get the photography & video at the spot. Stand of the Department is that checking was done

before the sun set. Department stated that on refusal by the consumer the J.E. Kultar Singh clipped the photo of S.D.O. while pasting the notice in his mobile. But J.E. Rakesh Kumar has not clipped photo or video in his mobile of 10 meter long wire bypassing the meter and committing theft of electricity. Department has sent no such record to this court. If it is agreed that inspecting team had no such mobile, then also it is not impossible to call a photographer before sun set in the town like Nadala. It is also worth to consider that if no Notice has been served on 09.08.2009 to the consumer then how the consumer refused on the spot. As per Para No.37(1) (f) of aforesaid notification if it is refused to accept such Notice then one copy of Notice should be pasted on the prime appropriate place of the House and 2nd copy of the Notice should be sent by registered post to the consumer. But the department has not given any detail of such registered letter in the history sheet. From which it is cleared that neither the department has done the checking on 09.08.2009 during the fixed time nor shown their Identity Card and adopt the procedure to serve the Notice. The notice sent under section 126 has procedure to give opportunity for personal hearing to the consumer by the Assessing Officer. But it is cleared from the record sent by the department Notice No.661 dated 10.08.2009 under section 126 has also have no reference of such authority to whom consumer could present his plea.

From the above details I reached to the conclusion that

respondent department has done this act by keeping in the fixed procedure out of sight. By being present once in the court and after that no presence made the department has given the proof of irresponsible and negligence of the duties. Therefore I confirm the first Order dated 02.12.2009 passed by this court. The copy of this order may be sent to the applicants and respondent department.”

It is not even pleaded or argued case on behalf of the petitioners that sufficient opportunities were not granted to them by the competent authority, before passing the impugned order. When confronted with the fact whether any appropriate action was taken against the erring officers/officials of the petitioner Department, learned counsel for the petitioners had no answer and rightly so, it being a matter of record. Still further, no explanation is forthcoming as to why the present writ petition has been filed after about four years of passing of the impugned order (Annexure P-1).

Besides the above fact situation, the instant writ petition has also been found suffering from delay and latches. In fact, petitioners have no case either on facts or in law. Because of the serious misconduct on the part of the officers/officials of the petitioner department, a poor consumer was being put to wholly unwarranted harassment. Nobody seems to be interested or ready to take the responsibility. Under these circumstances, it can be safely concluded that respondent No.4 committed no error of law, while passing the impugned order and the same deserves to be upheld, for this reason also.

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 the impugned order passed by the Sub Divisional Magistrate, Bhulath, District Kapurthala deserves to be upheld. Present writ petition is 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, instant writ petition stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

06.10.2016
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No