

CWP No.8932 of 2013

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

CWP No.8932 of 2013
Date of decision: 22.04.2016

M/s Surinder Kumar

....Petitioner

Versus

Ombudsman, Electricity, Punjab 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. Kuldip Sanwal, Advocate, for the petitioner.
Ms. Avin Sandhu, Advocate, for
Mr. Amit Aggarwal, Advocate, for respondents No.3 to 5.

PARAMJEET SINGH DHALIWAL, J.

Instant writ petition under Articles 226/227 of the Constitution of India has been filed for issuance of a direction in the nature of *certiorari* for quashing the order dated 10.01.2013 (Annexure P-9), order dated 03.11.2011 (Annexure P-7), order dated 18.04.2011 (Annexure P-6) passed by respondents No.1 to 3, respectively and demand notice dated 11.10.2010 (Annexure P-5) whereby petitioner was asked to deposit Rs.31,27,236/- on account of wrong application of multiplying factor.

I need not reproduce the entire facts of the case, however, facts relevant for the disposal of this case are that officials of respondent No.4 checked the connection at the petitioner's premises on 27.09.2010 for the

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first time after a gap of about 7½ years since its installation. After finding mistake in multiplying factor, a demand of Rs.31,27,236/- for the period from 09.04.2003 to September, 2010 was raised vide demand notice dated 11.10.2010 (Annexure P-5). Petitioner challenged the demand notice before respondent No.3 - Zonal Disputes Settlement Committee. The Zonal Disputes Settlement Committee vide order dated 18.04.2011 (Annexure P-6) upheld the demand raised by respondent No.4. Aggrieved against the decision of the Zonal Disputes Settlement Committee, petitioner approached the Forum for Redressal of Grievances of Consumers – respondent No.2. The Forum dismissed the representation/appeal filed by the petitioner vide order dated 03.11.2011 (Annexure P-7). Feeling aggrieved against the order passed by respondents No.2 and 3, petitioner approached this Court by way of CWP No.21636 of 2011. However, this Court vide order dated 15.10.2012 (Annexure P-8) relegated the petitioner to approach respondent No.1 - Ombudsman Electricity, Punjab. Petitioner preferred appeal before respondent No.1. Respondent No.1 declined the case of the petitioner, however, modified the period for recovery from 7½ years to 5 years vide order dated 10.01.2013 (Annexure P-9). Hence, this writ petition.

The short issue involved in this case is whether a consumer can be burdened with electricity charges beyond six months from the date of detection of mistake. The issue is no more *res integra* as similar issue has already been dealt with by this Court in CWP No.17699 of

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2014 titled '**M/s Park Hyundai v. Punjab State Power Corporation Ltd.**

and others' decided on 19.12.2015, wherein it has been held as under: -

“In the present case, meter ratio was 100/5 Amp and CT ratio of metering equipment was 200/5 Amp. This was detected for the first time on 24.09.2013 at the time of inspection at the spot by the enforcement staff, therefore, the multiplying factor of 2 is applicable on the consumer. Once the meter is not recording accurate reading, it will certainly be covered by Regulation 21.4(g)(i) and Circular No.05/2002 and not by Section 56(2) of the Act. Section 56 of the Act applies where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him. In other words Section 56 applies when bill is already issued and the amount is not paid and the recovery cannot be for more than two years.

*In the present case, mistake was detected during inspection after four years of installation of the connection at petitioner's premises. As per instructions and regulations, inspection is required to be made every six months. In view of the mandatory instructions/regulations, petitioner cannot be burdened with charges for four years. However, the respondents are entitled to recover the amount for six months preceding the date of checking i.e. 24.09.2013. The present case is squarely covered by the ratio laid down by Division Bench of this Court in **Tagore Public School (supra)** which stands affirmed by the Hon'ble Supreme Court.*

Petition is partly allowed in above terms.”

The decision rendered in the case of **M/s Park Hyundai**

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(supra) is fully applicable to the present case. Resultantly, this writ petition is allowed in the same terms.

(Paramjeet Singh Dhaliwal)
Judge

April 22, 2016
R.S.