

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

Date of Decision: 26.09.2017

1. CWP No.19449 of 2013

Sushma RaniPetitioner

Vs.

**The Designated Authority-cum-Deputy
Chief Engineer and others**Respondents

2. CWP No.19678 of 2013

Ajit MohanPetitioner

Vs.

**The Designated Authority-cum-Deputy
Chief Engineer and others**Respondents

3. CWP No.19683 of 2013

Surinder Kumar VermaPetitioner

Vs.

**The Designated Authority-cum-Deputy
Chief Engineer and others**Respondents

CORAM:- HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present:- Mr. Suvir Sehgal, Advocate with
Mr. Tarun Walia, Advocate for the petitioner.

Mr. Mukul Aggarwal, Advocate for
the respondents.

Rakesh Kumar Jain, J. (Oral)

This order shall dispose of three petitions bearing CWP Nos.
19449, 19678 and 19683 of 2013 as the issue involved in all these petitions
is common. However, for the sake of convenience, facts are being extracted

from CWP No.19449 of 2013 - Sushma Rani v. The Designated Authority-cum-Deputy Chief Engineer and others.

Shorn off unnecessary details, the premises of the petitioner was checked by the Checking Staff three times on 31.01.2013, 07.02.2013 and 14.06.2013. In the first and second checking, no default was found, however, in the third checking, the petitioner was found indulging in theft of electricity.

The petitioner was served with a show cause notice as to why he should not be asked to pay the amount mentioned therein for the alleged theft. Against the said show cause, the petitioner applied to the Designated Authority in terms of Clause 37.2(c)(i) of the Punjab State Electricity Regulatory Commission Notification dated 30.11.2007. The representation of the petitioner dated 17.06.2013 was rejected by the Designated Authority vide his order dated 08.07.2013. The said order was challenged by the petitioner by way of Writ Petition No.16057 of 2013 in which the petitioner raised the issue that the inspection was conducted by the officer of the rank of the SDO who was not competent because as per clause 2 of the commercial circulation No.34/06 dated 06.07.2006 issued vide Memo No.65412/66212/SR 134.5 dated 17.10.2006, the premises of the petitioner could not have been checked by an officer below the rank of Assistant Engineer. However, the petitioner was candid enough to bring to the notice of the said Court that the aforesaid issue was not taken by her before the Designated Authority which otherwise goes to the root of the case. Accordingly, the writ petition was disposed of on 26.07.2013 giving liberty to the petitioner to approach the Designated Authority-cum/Deputy Chief

Engineer, Punjab State Power Corporation Limited, Operation Circle Ropar with a comprehensive representation and the said authority was directed to decide her representation without being influenced with the earlier order passed by him on 08/09.07.2013. In view of the afoersaid order, the petitioner also deposited 50% of the amount in question and made the representation on 12.08.2013. The said representation was allegedly replied by the respondent. Although the petitioner submits that the copy of the said reply was not given but be that as it may, the Designated Authority referred to the reply extensively in his order and while concluding did not even opine on the question raised by the petitioner as to whether the officer who had checked the premises of the petitioner was competent or not. Shri Mukul Aggarwal, who is appearing on behalf of the Corporation has fairly conceded, looking into the impugned order passed by the Designated Authority, that the finding, regarding the competency of the authority concerned, who had checked the premises of the petitioner in regard to theft, was not recorded by the said Designated Authority.

I have heard both the learned counsel for the parties and after examining the record, am of the considered opinion that since the permission to raise the issue of the competency of the authority concerned who had checked the premises of the petitioner in regard to theft has not been decided despite the fact that the petitioner has raised this issue in his representation dated 12.08.2013 and the respondent- Designated Authority had only referred to the averments made in the reply and not touched the averments made in the representation, made his order illegal in the eyes of law much less on the touchstone of the principles of natural justice as the

competent authority was required not only to deal with the averments made by the petitioner in the representation but also to record a firm finding on the allegations made by the petitioner and contested by the respondent in the reply. Thus, in view thereof, I am of the considered opinion that the impugned order dated 30.08.2013 is patently erroneous much less illegal and thus the same is hereby set aside and the matter is remanded back to the Designated Authority to decide it again after giving opportunity of hearing to both the parties, by a passing speaking order and giving reasons on all the issues raised before him. The parties are directed to appear before the Designated Authority on 06.11.2017.

September 26, 2017
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(RAKESH KUMAR JAIN)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No