

CWP-1351-2017 (O&M)

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

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**CWP-1351-2017 (O&M).
Decided on: February 6, 2017.**

Punjab State Power Corporation Limited

.. Petitioner(s)

VERSUS

Appellate Authority and another

.. Respondent(s)

*** * ***

CORAM: HON'BLE MR.JUSTICE M.M.S.BEDI

*** * ***

**PRESENT Mr.A.K.Sharma, Advocate,
for the petitioners.**

M.M.S. BEDI, J. (ORAL)

The appeal of the consumer-respondent no.2 under Section 127 of the Electricity Act has been allowed and the demand raised vide memo No.1251 dated 26.9.2012, by the petitioner-Corporation has been held to be bad by the Sub Divisional Magistrate-cum-Appellate Authority vide impugned order dated 13.7.2016, Annexure P7.

Counsel for the petitioners has submitted that the order Annexure P7, passed by the Appellate Authority in exercise of powers under Section 127 of the Electricity Act, 2003, is not sustainable as it has been passed after the remand of the case and that the Appellate Authority did not have any jurisdiction to set aside the demand of the petitioners on remand.

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The allegation against respondent no.2, is that he was having a domestic connection for use of fans, tubes and bulbs but on checking he was allegedly found using the electric energy for construction purposes above the sanctioned load of 5.06 K.W. It is not disputed that the consumer has deposited the bill for the consumption of the electric energy as per the meter reading. It is not the case of the petitioners that it is a case of theft or suspected theft requiring the assessment as per the relevant provisions of Electricity Act, but the claim has been raised by the petitioners on the ground that water motor and one marble machine of 1 and 2 BHP respectively were being used.

The demand has been set aside mainly on the ground that the consumer had not been given any opportunity of hearing and that he was not present at the time of checking of the meter. No intimation regarding any user of the energy beyond the load was served upon the consumer. The consumer has already paid bill as per the consumption and demand of Rs.1,08,023/- raised on the basis of the ex parte meter checking as well as ex parte assessment.

In view of said circumstances, Appellate Authority exercising power under Section 127 of the Electricity Act has not exceeded its jurisdiction. Since the regular bill of Rs.29,210/- has already been deposited by the private respondent in time, there appears to be no ground to interfere in the order dated 13.7.2016.

The private respondent had deposited 50 per cent of the amount of the bill for filing appeal under Section 127 of the Electricity Act

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and the said amount has been ordered to be refunded to the consumer. The impugned order is modified to the extent that instead of refunding the amount to the consumer, the same will be adjusted against the future bills of the consumer.

With the above modification, the writ petition is dismissed as the same does not warrant any interference.

(M.M.S. BEDI)
JUDGE

February 6, 2017.

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Whether speaking / reasoned

Yes / No

Whether reportable:

Yes / No