

CWP-20656-2014

Date of Decision : 28.02.2017

Shamsher Singh

.....Petitioner

versus

The Sub Divisional Officer (Civil) and others

....Respondents

CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI**Present:** Petitioner in person.Mr. Amit Arora, Advocate
for respondents No. 1 to 3.Mr. G.S. Bal, Senior Advocate with
Ms. Manju Sharma, Advocate
for respondents No. 5 and 6.**M.M.S. BEDI, JUDGE (ORAL)**

The petitioner is aggrieved by the assessment made under Section 126 of the Electricity Act to the tune of Rs.27,884/- on the allegations that he was found to be using *kundi* connection being resident of House No. 234, First Floor, Village and Post Office, Maloya, Chandigarh during the checking on 19.10.2010.

The petitioner, no doubt, has deposited the entire amount under protest but his right of appeal under Section 127 of the Electricity Act has not been permitted to be exercised on the ground that the appeal had not been filed within a period of 30 days as required under Section 127 (1) of the Electricity Act.

The petitioner, present in person, has submitted that he has not been able to exercise his statutory right of appeal under Section 127 of the Electricity Act to establish that the theft, if any, has not been committed by him but by respondents No. 5 and 6, who are the residents

of first floor. He claims that he is resident of ground floor.

Learned counsel for respondents No. 5 and 6 has denied the said allegations.

Be as that it may, it is apparent that the petitioner has not been given a fair opportunity to get his claim adjudicated on facts and on law, by giving him an opportunity to get adjudication of his statutory appeal on merits, despite the fact that he had filed an appeal on 10.05.2011 as admitted in the impugned order. A perusal of the order passed by the Appellate Authority indicates that the assessment order was dated 21.04.2011.

It is apparent that the appeal had been filed within a period of limitation and it has been declined on technical grounds. The appeal has in fact been returned to the petitioner to enable him to file the same before the appropriate forum.

Without expression of any opinion on merits, this petition is allowed. Order Annexure P-17 is set aside. The petitioner will be at liberty to file appeal before the Appellate Authority within a period of 15 days. In case of the appeal being filed within a period of 15 days from today, it will be entertained. In case, the petitioner fails to file an appeal within the stipulated period, this petition will be deemed to have been dismissed.

(M.M.S. BEDI)
JUDGE

28.02.2017
Neha

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No