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

**CWP-21864-2015 (O&M)
Date of decision : 15.02.2017**

DHBVNL and another

... Petitioners

Versus

Forum for Redressal of Consumer Grievances and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Suvir Sehgal, Advocate
for the petitioners.

Mr. Raman Chawla, Advocate
for respondent No.2.

AMIT RAWAL, J. (ORAL)

CM-14691-CWP-2016

For the reasons stated in the application which is duly supported by an affidavit, the application is allowed and the written statement on behalf of respondent No.2 is taken on record subject to all just exceptions.

CM stands disposed of.

CWP-21864-2015

The petitioners-DHBVNL is aggrieved of the impugned order dated 23.06.2015 (Annexure P-9) passed by the Forum for Redressal of Consumer Grievances, Hisar, whereby the complaint dated 18.06.2015 (Annexure P-5) filed by respondent No.2 has been disposed of with a direction to the petitioners to withdraw the assessment notice.

Mr. Suvir Sehgal, learned counsel appearing on behalf of the petitioners submits that Kishan Lal/respondent No.2 was issued a electric connection (Domestic Supply Category) under Account No.SM1D-0446A by the Sub-Divisional Officer/Operation Sub-Division, Dakshin Haryana Bijli Vitran Nigam Ltd., Siwani, Bhiwani, with sanctioned load of 4.3 KW. On 28.04.2015, his premises were checked by the officials of the petitioners and during checking it was found that he was drawing the electric supply directly from the LT line of the DHBVN. The connected load at the time of checking was found to be in excess i.e. 5.166 k.w. Inspection report dated 28.04.2015 (Annexure P-1) was prepared and photographs, in this regard, were also taken at the spot. On the basis of Inspection Report, an assessment order dated 29.04.2015 under Section 135 of the Electricity Act 2003 along with the copy of the checking report, imposing penalty of ₹ 83,117/- on account of theft of electricity against respondent No.2 was issued. He was also served a notice dated 29.04.2015 for compounding the offence, whereby compounding fee of ₹ 12,000/- was levied. However, in the meantime, the Sub-Divisional Officer also requested the police to lodge an FIR under Section 135 read with Section 151 of the Electricity Act. Respondent No.2 after remaining silent for two months filed the complaint (Annexure P-5), as indicated above. The Forum had issued notice to the petitioners and held that it was a case of harassment and not of theft and directed to withdraw the aforementioned complaint. He submits that as per the Regulation 7 of the Notification dated 12.04.201 (Annexure P-10), the Forum is debarred to take up the complaint pertaining to unauthorized use of the electricity as defined under Explanation to Section 126 of the Act; offences and penalties under Sections 135 to 139; and accidents and

inquiries under Section 161 of the Electricity Act. For the sake of brevity, Regulation 7 of the Notification, aforementioned, reads as under:

"7. Complaint that can be taken up by the forum. The forum shall take up any kind of grievances/complaints as defined in regulation 2(h) of these regulations except the complaint pertaining to-

(iii) Unauthorized use of electricity as defined under explanation to Section 126 of the Act.

(iv) Offences and penalties as specified under Section 135 to 139 of the Act;

(v) Accidents and inquiries as specified under Section 161 of the Act unless prescribed by the State Government by General/special order."

thus, the Lok Adalat did not have the jurisdiction to entertain and try the complaint. This fact has already been interpreted by the Hon'ble Supreme Court in **"Executive Engineer and another V/s Sri Seetaram Rice Mills" 2012 (2) SCC 108.**

Mr. Raman Chawal, learned counsel appearing on behalf of respondent No.2 submits that the finding of the Forum is perfectly legal and justified. On receipt of the complaint, it was found that it was a case of harassment and not of theft, in fact, the Officers of the Electricity Board asked for undue favour which respondent No.2 did not succumb, resulting into the aforementioned illegal demand, thus, urges this Court for dismissal of the present writ petition as there is no illegality and perversity in the impugned order under challenge.

I have heard the learned counsel for the parties and appraised the paper book. Regulation 7 of the Notification dated 12.04.2004 (Annexure P-10) issued by the Haryana Electricity Regulatory Commission,

leads to an irresistible conclusion that the Forum did not have any jurisdiction to entertain the complaint in respect of theft. The remedy, if any, to the complainant lied elsewhere either in a civil suit or otherwise, but not in the manner and mode as indicated above. This fact has not been examined by the Forum, thus, there is illegality and perversity.

For the foregoing reasons, the impugned order under challenge is not sustainable, much less, without jurisdiction and the same is hereby set aside and accordingly, the present writ petition stands allowed.

15.02.2017 Yogesh Sharma	(AMIT RAWAL) JUDGE
	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No