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

CWP-22993-2014

Date of decision : 01.05.2017

Sunita

... Petitioner(s)

Versus

Uttar Haryana Bijli Vitran Nigam Ltd. and another

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Jasbir Mor, Advocate
for the petitioner.

Mr. R.S. Longia, Advocate
for the respondent(s).

AMIT RAWAL, J. (ORAL)

The petitioner is aggrieved of the impugned order dated 11.05.2010 (Annexure P-2) passed by respondent No.2, whereby the petitioner has been called upon to pay the amount of ₹ 6,70,437/- (₹ 4,80,437/- as penalty + ₹ 1,90,000/- as compounding fees) imposed by the Electricity Board under Section 135 of the Electricity Act, 2003 (for short 'the 2003 Act') on account of theft of electricity.

Mr. Jasbir Mor, learned counsel appearing on behalf of the petitioner submits that though the aforementioned amount in entirety has been deposited in order to avoid disconnection, but the fact remains that the petitioner had never indulged into theft. It is a conceded position on record that vide receipt No.022277 dated 15.03.2010 (Annexure P-9), the petitioner had deposited the fees for replacement of the meter, which was

burnt and the subsequent bills (Annexure P-10, P-11 & P-12) also show the consumptions on average basis. The alleged inspection on 08.05.2010 finding the petitioner indulging into theft is totally imaginary and based upon the conjectures. It was duty of the concerned Electricity staff to replace the meter, once the bills were being issued on average basis consumptions, there cannot be any case of theft. The factum of the receipt has been denied in paragraph No.2 of the written statement, therefore, the alleged demand is also liable to be set aside and the matter is required to be readdressed.

Mr. R.S. Longia, learned counsel appearing on behalf of the respondent(s) submits that in view of the penalty and compounding fee having been deposited by the petitioner, there was no question of registration of FIR. In case, the petitioner is disputing the amount, the proceedings under Section 154 of the 2003 Act could have been initiated as the Criminal Court would have a jurisdiction to determine the civil liability under sub-Section 6 of Section 154 of the 2003 Act, thus, urges this Court for dismissal of the present writ petition.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is a merit and force in the submissions of Mr. Jasbir Mor, for, the contents of paragraph No.2 of the written statement regarding deposit of the amount vide receipt, aforementioned, reads as under:

"2. Though the petitioner had made an application on 05.03.2010 for change of her meter, and deposited ₹ 3250/-, but she did not apply to the competent authority for direct supply till the new meter is arranged. She had not retained or deposited the alleged burnt meter with the respondents, but

misappropriated the same intentionally to conceal the true facts. The burnt or alive meter was not found at the spot at the time of inspection nor deposited by her with the respondents till date. Petitioner had no right to extract direct supply by connecting the LT line with a load more than double the sanctioned load, at her own, without sanction of competent authority and without complying with the necessary formalities. No official of the respondents removed the meter of petitioner not any one of them connected her service directly to the L.T. Line, as she has falsely alleged. The alleged averse bills related to the consumption for the earlier regarding recorded by the meter reader, not for any period subsequent to 5.3.2010. No billing was made for the period w.e.f. 5.3.2010 to 8.5.2010. Therefore, there was no question of any dues against her?."

The Electricity Authorities were enjoined upon the obligation to address the issue/grievance of the petitioner as the subsequent bills (Annexures P-10, P-11 & P-12), have been issued on consumptions of average-basis and also not denied/rebutted. Apparently, it cannot be a case of theft. All these factors were required to be addressed by the authorities. The authorities, who are rendering the services to the petitioner and charging taxes on that, cannot indulge into such atrocious /enormous demand, much less, harass and humiliate the people. I am refraining myself for commenting upon the act of the Electricity Board/Department any further, as it shall be tested the injects of some other case, but the fact remains that the matter regarding burning of meter and deposit of amount vide receipt, aforementioned, for replacement, is required to be addressed and revisited.

Keeping in view the aforementioned facts, the impugned order

dated 11.05.2010 (Annexure P-2) passed by respondent No.2, is hereby set aside and the Electricity Board/Department is directed to look into the grievance of the petitioner particularly/deposit receipt vide which the entire amount had been deposited. It is expected that the Authorities shall take the action in most objective and pragmatic manner and not in the manner and mode as already indicated above. In case, it is found that there was no theft of electricity, the amount deposited by the petitioner, shall be adjusted towards the subsequent consumptions.

Resultantly, the present writ petition stands disposed of.

01.05.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No