

CWP-8057-2013

Date of Decision : 22.03.2017

Rajesh Kumar

.....Petitioner

versus

State of Haryana and others

....Respondents

CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI**Present:** Mr. A.K. Gahlawat, Advocate
for the petitioner.Mr. Gaurav Jindal, Addl.A.G., Haryana
for respondent No. 1.Mr. Sudhir Hooda, Advocate
for respondents No. 2 to 4.**M.M.S. BEDI, JUDGE (ORAL)**

On the basis of checking by the officials of Dakshin Haryana Bijli Vitran Nigam Ltd., Annexure P-1 dated 18.08.2008, a penalty of Rs.1,86,904/- was imposed upon the petitioner vide order Annexure P-2 dated 25.08.2008. The petitioner had approached the District Consumer Forum, Bhiwani and the State Consumer Disputes Redressal Commission, Haryana but no relief could be obtained as the claim was held to be not maintainable before the District Forum whereas the State Consumer Disputes Redressal Commission held that the appeal was barred by time.

After hearing learned counsel for the petitioner, I am of the considered opinion that the petitioner had approached a Forum which did not have any jurisdiction under Section 12 and 13 of the Consumer Protection Act, 1986. No doubt petitioner has already deposited 35 per cent of the demand on the basis of Annexure P-2, yet appropriate remedy available to the petitioner is under Section 154 of the Electricity Act whereby the Special Courts have been constituted to determine the extent

of the civil liability of the petitioner. In this context, reference can be made to the judgment of this Court in *Kapoor Singh versus Punjab State Power Corporation Ltd. and others* 2015 (2) RCR (Civil) 891 and *Satyabir Goyal versus Dakshin Haryana Bijli Vitran Nigam* 2016 (1) RCR (Civil) 514 holding that Special Courts constituted under Section 153 of the Electricity Act would have twin responsibility to examine the case from both the angles i.e. one of the alleged theft and one of the civil liability and pass appropriate orders accordingly.

This petition is disposed of holding relegating the petitioner to the appropriate authority under the Electricity Act, observing that the orders passed by the Consumer Redressal Forum Annexure P-8 and P-9 will not curtail the right of the petitioner to get the controversy adjudicated upon. The period spent before wrong Forum may be claimed under Section 14 of the Limitation Act, in case the petitioner approaches the Special Court having jurisdiction within a period of 30 days.

In case, the petitioner continues to pay the consumption charges and the requisite fee for availing the alternative remedy, he will be entitled to utilise the electric energy as per the bills.

It is made clear that in case the petitioner fails to avail the remedy within the above said period this petition will be deemed to have been dismissed.

(M.M.S. BEDI)
JUDGE

22.03.2017

Neha

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No