

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CWP 3345 of 2017

Date of Decision: May 16, 2017

Punjab State Power Corporation Ltd. and ors.

.....Petitioners

Vs.

Nakul Gupta

.....Respondent

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

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Present:- Mr.Pankaj Bhardwaj, Advocate for the petitioners.

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

After hearing counsel for the petitioners and going through the impugned order and various annexures, it transpires that vide annexure P-6 dated October 29, 2009 on account of controversy regarding charging ACD for billet heater load at the rates applicable to the power intensive loads it was decided to consider the load of billet heater load as power intensive load. The said order passed by the Chief Engineer on October 29, 2009 stands withdrawn in the year 2012. The respondent had been penalized by making assessment on July 12, 2013 under Section 126 of the Electricity Act which was challenged by respondent in appeal under Section 127 of the Electricity Act. The Commissioner, Jalandhar Division in the exercise of Appellate Authority has passed the following orders:-

“I have arrived at the conclusion that this instant/ impugned order is erroneous on account of (a) the assessment has not been made by the competent authority herein by DYCE or SE himself but by the junior staff (b) Assessment Order has not been issued within 72 hours but after a lapse of one month and 20 days (c) PSPCL has never obtained any permission from the Punjab State Electricity Regulatory Commission regarding issuance of Circular by PSPCL for considering the load of Billet Heaters as Power Intensive Unit before hand. In view of above, I consider/ opine that the Assessment orders suffer/ do not stand on sound footing and require to be set aside. Therefore, the instant appeal is accepted, impugned orders dated 26.7.2011, 12.7.2013 and 25.7.2013 are hereby set aside, and the PSPCL is ordered to cancel its Demand Order amounting to Rs.19,23,361/- and to refund all the amounts deposited by the appellant with the respondents.”

While passing the above said order it has been observed that PSPCL had never obtained any permission from the Punjab State Electricity Regulatory Commission regarding issuance of circular for considering the load of billet heaters as power intensive unit before hand as such considering the notification annexure P-6 dated October 29, 2009 illegal, the assessment made qua the respondent was set aside.

As the foundation of the assessment has been found to be illegal, any structure over the said foundation will automatically collapse if the order of load of billet heaters to be considered as power intensive unit was held to be bad and has ultimately been withdrawn. No ground is made out for interference.

Dismissed.

May 16, 2017
sanjay

(M.M.S.BEDI)
JUDGE

Whether speaking/ reasoned:	Yes/ No.
Whether reportable:	Yes/No.