

CWP No. 10562 of 2015
Date of Decision: 17.07.2018

PUNJAB STATE POWER CORPORATION LTD. AND ANOTHER
....Petitioners

VS.

RAGHBIR SINGH AND ANOTHER *...Respondents*

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.

Present: Mr. Vishal Chaudhri, Advocate,
for the petitioners.

Mr. Harbhajan Singh, Advocate,
for the respondents.

RAKESH KUMAR JAIN, J. (ORAL)

This petition is filed by the Punjab State Power Corporation Limited (for short ‘the petitioner-Corporation’) to challenge the order dated 27.11.2014 passed by the appellate authority on an appeal having been filed under Section 127 of the Electricity Act, 2003 (hereinafter referred to as ‘the Act’).

Learned counsel for respondent No. 2 was served with a notice of provisional assessment of ₹1,56,000/- under Section 126 of the Act on account of unauthorized use of electricity. Respondent No. 2 filed objections to the notice of provisional assessment after which the petitioner-Corporation passed the final order of assessment on 16.02.2011 asking respondent No. 2 to pay ₹2,25,257/-. Aggrieved against the said order, respondent No. 2 filed a complaint before the District Consumer Disputes Redressal Forum, Sangrur (in short 'the District Forum'). The said complaint was allowed on 11.11.2011 but the petitioners-Corporation filed an appeal before the State

Consumer Disputes Redressal Commission, Punjab (for short 'the

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Commission') against the order dated 11.11.2011. The said appeal of the petitioner was allowed on the ground that the District Forum does not have the jurisdiction to deal with the matters covered under Section 126 of the Act. Respondent No. 2, thereafter, filed an appeal before the appellate authority. The appellate authority, however, allowed the appeal by taking into consideration the findings recorded by the District Forum.

Learned counsel for the petitioners has submitted that the appellate authority has committed a patent error of law by taking into consideration the findings recorded by the District Forum in its order because the said findings have become no-est after the appeal filed against the order passed by the District Forum was allowed by the Commission on the ground that the District Forum had no jurisdiction to deal with the matter covered under Section 126 of the Act. It has also brought to the notice of this Court that the petitioners have committed a mistake in registering FIR No. 146 of 26.11.2010 against respondent No. 2 under Section 135 of the Act at Police Station Anti Power Theft, PSPCL, Patiala in which respondent No. 2 has been acquitted by the Special Court vide order dated 12.07.2016.

Learned counsel for the petitioners has been candid enough to admit that the petitioners have committed an error even in registering of an FIR against respondent No. 2 because FIR can be registered only in case of theft of electricity. Be that as it may, it is submitted that the impugned order is patently erroneous and deserves to be set aside.

Learned counsel for the respondents, however, vehemently argued that there is no error in the order passed by the appellate authority but he could not deny that the appellate authority should not have relied upon the findings recorded by the District Forum for the purpose of taking the

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decision. He has also not denied that no independent decision has been taken by the appellate authority after taking into consideration the facts and circumstances of this case.

Thus, in view of the aforesaid facts and circumstances, the irresistible conclusion would be to set aside the order of the appellate authority dated 27.11.2014 and to remand the matter back to the appellate authority to decide it again in accordance with law, *de hors*, the findings recorded by the District Forum in favour of respondent No. 2. Thus, the present writ petition is allowed, impugned order dated 27.11.2014 is hereby set aside and the matter is remanded back to the appellate authority to decide the appeal filed by respondent No. 2 in accordance with law, without taking into consideration the findings recorded by the District Forum which have already become non-est.

Parties are directed to appear before the appellate authority, much less respondent No. 4 on 13.08.2018.

July 17, 2018

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(RAKESH KUMAR JAIN)
JUDGE

Whether speaking / reasoned :

✓
Yes / No

Whether Reportable :

Yes / No