

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

CWP-13793-2016 (O&M)

Date of Decision: 25.10.2018.

Indus Towers Ltd.

... Petitioner

Versus

Dakshin Haryana Bijli Vitran Nigam Limited and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Vishal Gupta, Advocate,
for the petitioner.

Mr. Arihant Goyal, Advocate,
for the respondents.

JITENDRA CHAUHAN.J.

Through the instant civil writ petition, the petitioner company seeks quashing of memo No. 41/15 dated 10.12.2015 (Annexure P-7) vide which a sum of Rs.6,12,336/- was shown payable on account of unauthorized meter and quashing of memo No. 137/14 dated 16.10.2015 (Annexure P-3) issued by respondent No.3 vide which a demand of Rs.9,57,041/- was raised on account of consumption of electricity energy.

It is contended that the petitioner is a company incorporated under the Companies Act, 1956. The petitioner is a registered infrastructure provider and is engaged in the business of establishment, maintenance and provision of tele-communication infrastructure including installation and operation of cellular towers.

The respondents had checked the electricity meter of the petitioner installed at Chhoti Bazari, Vardhman School, Charkhi Dadri on 15.10.2015 and found that the meter was duly installed inside the premises of the school. In pursuance to the checking report dated 15.10.2015, the respondent authorities had issued a demand memo No. 137/14 dated 16.10.2015 (Annexure P-3) vide which a sum of Rs.9,57,041/- was demanded from the petitioner on account of consumption of electricity energy. The petitioner company has made the payment of Rs.9,57,041/- in cash on 13.11.2015 vide receipt (Annexure P-5). To the utter surprise of the petitioner, the respondents have again demanded a sum of Rs.6,12,336/- from the petitioner company in respect of the same very charges, vide memo No. 41/15 dated 10.12.2015 (Annexure P-7) therefore, the same is liable to be set aside.

On the other hand, on behalf of the respondents, it is contended that during checking of the premises in question on 15.10.2015, it was found that the meter was installed in the premises but the account number on the meter was not mentioned and the bill was also not produced by the petitioner company at the time of checking. The respondent authorities thereafter prepared LL-1 No. 26/1104 dated 15.10.2015 and an amount of Rs.9,57,041/- was assessed as consumption charges of electricity. As no responsible person on behalf of the petitioner company was present, the existing

load could not be taken into consideration and the actual damage could not be ascertained, therefore, the respondent authorities again inspected the premises on 19.10.2015 and LL-1 No. 27/1104 dated 19.10.2015 was prepared. A notice was issued to the petitioner company to provide account details of the meter but the petitioner has failed to provide account details, therefore, it was treated as a case of theft of energy as per the provisions of Section 135 of the Electricity Act, 2003 and the damage caused to the respondents was assessed at Rs.6,12,335/- vide memo No. 41/5 dated 10.12.2015 (Annexure P-7). It is asserted that the petitioner has not approached the competent authority by filing objections under Section 126 of the Electricity Act, 2003 for redressal of his grievance, therefore, the present petition is not maintainable.

Heard.

The premises in question were inspected by a team of respondents on 15.10.2015. On inspection, the meter was found installed without account number thereon. The bill issued to him was also not produced by the petitioner. As no responsible person on behalf of the company was present, the authorities on the basis of inspection prepared LL-1 No.26/1104 dated 15.10.2015 and assessed the consumption charges of electricity at Rs.9,57,041/- and the petitioner was directed to provide the detail of the meter. Thereafter, again inspection of the premises in question was carried out on 19.10.2015 and the petitioner was directed to provide the account

details of the meter. As the petitioner failed to provide the details accordingly, the case was dealt as theft case as per Section 135 of the Electricity Act, 2003 and the loss/damage caused to the respondents was assessed at Rs.6,12,335/- on 19.12.2015. The calculation was carried out as per circular No.43/2007 dated 20.07.2007 (Annexure R-1/4).

The installation of the meter and the fact that energy was being consumed by the petitioner is not disputed. The amount sought to be recovered has been correctly assessed as per Section 135 of the Electricity Act, 2003. Moreover, the petitioner has not availed the alternative remedy available to him under Section 126 of the Electricity Act, 2003 for redressal of his grievance.

Considering the above admitted position, no case for interference is made out.

Dismissed.

25.10.2018.
SN

(JITENDRA CHAUHAN)
JUDGE

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