

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

*CWP No.19176 of 2016
Date of Decision:18.07.2018*

Punjab State Power Corp. Ltd. and another

. Petitioners

Vs.

Sub Divisional Magistrate-cum-Appellate Authority, Sangrur and others

. Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Ms.Promila Nain, Advocate,
for the petitioners.

Ms.Lavanya Paul, AAG, Punjab.

RAKESH KUMAR JAIN, J.

The petitioners have challenged the order dated 27.3.2015 passed by the Sub Divisional Magistrate-cum-Appellate Authority, Sangrur in an appeal against them.

In brief, respondent No.2 is the uncle of respondent No.3. Both of them have separate electricity connections bearing Account No.AP-11/234 and SP-93/214. Respondent No.3 has a fishery pond. It is not disputed that respondent No.3 used water for his fishery pond through the agricultural electricity connection bearing Account No.AP-11/234 belonging to respondent No.2 for several months. During checking in the proceedings initiated under Section 126 of the Electricity Act, 2003 [for short 'the Act'], the unauthorized use of electricity was found against respondent No.2 and a provisional order of assessment was passed to the

tune of ₹1,50,675/- and ₹6,000/- towards fine. Respondent No.2 was given time to file objections to the provisional assessment. After taking into consideration the objection, the final order of assessment was passed and respondent No.2 was asked to pay ₹1,50,675/-. Aggrieved against the final assessment order, appeal under Section 127 of the Act was filed before the Appellate Authority by both respondents No.2 & 3 which was allowed by the Appellate Authority without touching the aspect of the unauthorized use of electricity and has been decided only on equity.

Learned counsel for the petitioners has submitted that the order passed in appeal is totally non-speaking as no finding has been recorded on the issue as to whether respondents No.2 & 3 were indulging in unauthorized use of electricity.

No one has put in appearance on behalf of respondents No.2 & 3.

I have heard learned counsel for the petitioners and the State of Punjab and after taking into consideration the facts and circumstances, am of the considered opinion that the impugned order passed by the Appellate Authority deserves to be set aside only on the ground that no finding has been recorded as to whether the proceedings carried out by the petitioners in terms of Section 126 of the Act were justified or not, or whether respondents No.2 & 3 have unauthorisedly used the electricity. Therefore, the present petition is hereby allowed, order dated 27.3.2015 passed by the Appellate Authority is set aside and the matter is remanded back to the Appellate Authority to decide it again by recording a categorical finding in regard to the

validity of the proceedings initiated against respondents No.2 & 3 in terms of Section 126 of the Act.

Parties are directed to appear before the Appellate Authority on 14.08.2018. The Appellate Authority shall also, after receiving the record, issue notice to the parties concern for appearance.

18.07.2018

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned : Yes/No

Whether Reportable : Yes/No