

Date of Decision: 17.07.2018

....Petitioners

VS.

PUNJAB STATE POWER CORPORATION LTD. (POWERCOM) AND OTHERS

...Respondents

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

Present: Mr. Arunjeet Singh Kakkar, Advocate,
for the petitioners.

Mr. G.S. Brar, Advocate,
for respondents No. 1.

Mr. Sahil Sharma, DAG, Punjab.

RAKESH KUMAR JAIN, J. (ORAL)

The petitioner is seeking the issuance of a writ in the nature of Certiorari for quashing the order dated 09.07.2014 which is purported to have been passed in terms of Section 126 (6) of the Electricity Act, 2003 (hereinafter referred to as 'the Act').

The petitioner has earlier approached this Court by way of CWP No. 18850 of 2015 which was dismissed on the ground that the petitioner has an alternative remedy of appeal under Section 127 of the Act. Instead of filing the appeal, the petitioner has filed a civil suit for declaration before the Special Court.

After notice, the respondents have put in appearances and submitted that the civil suit filed by the petitioner before the Special Court is not maintainable because it would be maintainable only in case the petitioner is to challenge the liability having been fastened upon him in terms of

CWP No. 2216 of 2016 (O&M)

It is further submitted that in a case of unauthorized use of electricity, the only remedy available to the petitioner is by way of filing an appeal under Section 127 of the Act but the said appeal would be entertained only in terms of Section 127 (2) of the Act which says that the appellant has to deposit half of the amount finally assessed in terms of Section 126 of the Act. It is also submitted that since, the petitioner does not want to pay half of the amount of the final assessment, therefore, he had filed the Civil Suit instead of filing of an appeal.

Faced with these observations, learned counsel for the petitioner has prayed for withdrawal of the present petition with liberty to file an appeal under Section 127 of the Act and to withdraw the civil suit before the Special Court. It is needless to mention here that in case the petitioner files an appeal against the impugned order dated 09.07.2015 (Annexure P-1) within a period of 15 days from the date of receipt of certified copy of this order in terms of Section 127 (2) of the Act then the appellate authority shall decide the same in accordance with law and the respondents and the appellate authority shall not raise any issue of limitation.

With these observations, present petition is dismissed as withdrawn with the liberty aforesaid.

July 17, 2018

Ess Kay

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking / reasoned :

✓
Yes / No

Whether Reportable :

Yes / No