

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

CWP-8866-2016 (O&M)

Date of Decision: 26.10.2018.

Uma Rani

... Petitioner

Versus

U.H.B.V.N. Ltd and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Ravindra Jain, Advocate,
for the petitioner.

Mr. Deepak Kundu, Advocate for
Mr. Piyush Khanna, Advocate,
for the respondents.

JITENDRA CHAUHAN.J.

Through the instant civil writ petition, the petitioner seeks quashing of order dated 06.04.2015 (Annexure P-6) passed by respondent No.3 vide which demand of Rs.1,71,332/- was raised against the petitioner on account of theft of electricity.

States that by filing an application dated 20.02.2006, the petitioner applied for NDS (non domestic supply) connection to the respondents for running a computer centre at shop No. B-4/371/E/1, Model Colony Near Jain Atta Chakki, Yamuna Nagar. It is asserted that the petitioner has been regularly paying electricity charges. On 24.03.2015 at about 5.10 pm, respondent No.3 along with 10 other persons came to the premises of the petitioner and instructed that the electricity meter is to be shifted outside. For that purpose, they obtained

signatures of Neeraj Khanna son of the petitioner who was running computer centre on blank report. The checking party made remarks “found “BENTEX” make meter installed inside consumer premises. Meter accuracy found abnormal, it is case of suspected theft of energy”. The checking party removed the meter from the site without adopting any proper procedure and packed in a card board box which was not signed by the checking party. The meter was sent to M&T Laboratory. In the report of the Laboratory, it was found that firm and M & T seals found tempered, body cover lock found broken, found tempering with its counter gear i.e. lock of counter gear broken. The petitioner received order of assessment dated 06.04.2015 by licensee for offence of theft under Section 135 of Electricity Act, 2003.

On the other hand, on behalf of the respondents, it is contended that on 24.03.2015 at 5.10 pm, the premises of the petitioner were checked by a team of the respondent-department headed by Sh. Satya Pal J.E. The checking was made in the presence of Neeraj Khanna son of the petitioner and it was noticed that Bentax make meter was installed inside the premises. The meter accuracy was found abnormal. It was a case of suspected theft of electricity energy. The meter was removed form the site and packed in a cardboard box duly signed by the checking party and the user. The meter was sent to M & T Laboratory for checking of seals etc. The videography of the scene was done. The supply of the electricity to the house was restored by

installing a new meter. Thereafter, a notice was issued to the petitioner asking her to attend the M & T Laboratory at Yamuna Nagar on 25.03.2015 at the time of checking of the meter. The meter in question was checked on 25.03.2015 in the presence of Neeraj Kumar Khanna. Vide report dated 25.03.2015 (Annexure R-3), it was found that “Firm and M & T seal found tempered, also the body cover lock found broken. Opened the meter and found tempering coil and lock of counter gear broken”. The units of electricity were counted as per the guidelines contained in the sales circular No.14/2004 issued by the UHBVNL which came to be 10042 after deducting 1478 units and the amount in respect of electricity was assessed at Rs.1,51,332/-.

Heard.

It is to be noticed that the meter in question was installed in February 2006 and till the date of checking in question no illegality was found in the meter despite repeated checking conducted on 29.03.2012 and 03.05.2014. Further the petitioner had applied under the Non-Domestic Supply category and the load was sanctioned upto 4 KW however, after inspection a new meter was installed under domestic category. The respondents never informed the petitioner regarding installation of domestic category meter, therefore, the petitioner cannot be penalized for the wrongful act of the respondents. Consequently, the present civil writ petition is allowed. The order dated 06.04.2015 (Annexure P-6) is set aside. The

respondents are directed to refund the aforesaid amount to the petitioner within two months from the date of receipt of certified copy of the judgment.

26.10.2018.
SN

(JITENDRA CHAUHAN)
JUDGE

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