

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

**RFA No.1000 of 2018 (O&M)
Decided on : 05.04.2018**

Punjab State Power Corporation Ltd. and others

... Appellants

Versus

M/s Dashmesh Gram Udyog Samiti, District Moga

... Respondent

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Ms. Meena Bansal, Advocate
for the appellants.

G.S. Sandhawalia, J. (Oral)

CM-2620-CI-2018

Application is allowed, as prayed for.

CM stands disposed of.

CM-2619-CI-2018

Application under Section 5 of the Limitation Act for condonation of delay of 44 days in filing the present appeal has been filed.

In view of the averments made in the application and in view of the fact that the delay is nominal, the application is allowed. The delay of 44 days in filing the appeal is condoned.

CM stands disposed of.

Main appeal

The present appeal has been preferred by the appellant-Corporation against the order dated 20.11.2017 passed by Special Judge, Moga. The respondent-consumer had challenged the demand of ₹42,937/-

alongwith compounding charges which were raised by the Corporation vide letter dated 07.01.2015 on the ground that he never committed any theft of electricity and the charges had been paid regularly by him. The suit was contested by the Corporation on the ground that the demand was raised on account of the fact that old meter was changed with a new one by the concerned JE. The old removed meter was brought by the official in the ME Lab for its internal inspection where the said meter was opened and checked. On inspection of the meter ME seals were found fake and it was the case of the Corporation that ME seals were removed and the numbers of the seal did not tally and body of the meter was tampered with. Resultantly, the demand as such was raised.

The Special Court has noticed that the appellant examined only one witness by whom the meter was checked and seals were found fake. It has been recorded that nothing was brought on record that from the time of the removal of the meter whether the same was kept in a secure, packed and intact condition. Even the factum when the meter was changed and on what basis the same was removed, had not been explained. There was an admission as such by the witness of the appellants RW-1 Mandeep Singh-SDO that the meter was brought to the ME Lab in unpacked condition and the fact that no notice was also issued requiring the consumer to join the process of checking was kept in mind. The reason for meter being removed and in the absence, whether it had got burnt and under which circumstances the change was necessitated was kept in mind. Resultantly, the suit had been decreed.

The finding as such which were recorded by the Special Court do not warrant any interference, as it was for the appellants as such to prove that the demand as such was on a valid basis. The principles of natural justice have been openly violated as such while checking the meter and no notice as such was issued before the checking and the meter was never sealed after it was removed. In such circumstances, the meter after being removed and before being sent to the ME Lab, could have been tampered by some other persons, which is also an issue and the consumer cannot be faulted without any basis.

Resultantly, there is no merit in the present regular first appeal and the same is dismissed in limine.

APRIL 05, 2018
Naveen/sailesh

(G.S. SANDHAWALIA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>