IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RFA No.5497 of 2017

Punjab State Power Corporation Limited & Another

....Appellants

Versus

Krishan Lal

...Respondent

(2)

RFA No.1502 of 2018

Punjab State Power Corporation Limited & Another

....Appellants

Versus

Rampal

...Respondent

Date of Decision: 01.08.2018

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

Present: Ms. Bhavna Gupta, Advocate for the appellants.

G.S. Sandhawalia, J. (Oral)

The present judgement shall dispose of two appeals i.e. RFA Nos.5497 of 2017 and 1502 of 2018, which have been filed by the Punjab State Power Corporation Limited against the judgment dated 07.03.2017 under the Electricity Act, 2003 (for short 'the Act'). The facts being common as the consumers as such are two brothers are being taken from **RFA No.5497 of 2017 'Punjab State Power Corporation Limited & Another Vs. Krishan Lal'.**

The challenge by the consumer-respondent was on account of the demand of ₹1,35,952/- raised vide letter dated 17.08.2015 in respect of the Electricity Connection No.GT 35/196 which had been installed at Dana

Mandi, Phillaur in a petition filed under Section 154 of the Act. The plea taken was that the electricity meter was installed in the premises was removed on 26.02.2015 by the officials and was checked by the ME Lab on 07.08.2015 and no discrepancy was noted. The meter had again been checked on 14.08.2015 without the knowledge and notice of the petitioner and the report came against the consumer, on the basis of which the demand had been raised on 17.08.2015. It is in such circumstances, the Special Court was approached.

The Corporation admitted in its reply the said fact that vide report dated 14.08.2015 the meter was found tampered and it was a case of theft of electricity energy and resultantly, the demand had been raised.

The Special Court found that the meter had been packed and sealed at the time of checking and the consumer had given his consent regarding the checking on 07.08.2015, as per Ex.R-6. It, however, found in the checking done that there was no discrepancies, irregularities or theft in the meter and the meter had been dismantled and handed over to the staff of Sub Division, Phillaur and therefore, the re-checking on 14.08.2015 which was done on a open meter did not find favour. It was also noticed that there are no rules or regulations to re-check the meter in the ME Lab, which was already checked and and resultantly the demand was set aside.

Counsel for the appellant has vehemently argued that on an earlier occasion the consumer had gone for medical checkup and informed that he was not in a position to join and checking had been done on 07.08.2015 in spite of the fact that he had asked for more time, but in spite of that they had given their consent on 07.08.2015. An argument has also been raised that the employees had connived with the consumer to give a favourable report.

A perusal of the record which has been summoned would go on to show that even when the meter was removed it was only observed that on the checking which was done on 23.02.2015 seal of the meter was found to be suspicious and it was on such account the meter had been removed in a packed condition.

It is not disputed that the checking done on 07.08.2015 by the officials of the Corporation was in favour of the consumer by which it was noticed that there was no visible tampering with the meter on the opening of the same. The subsequent report dated 14.08.2015 (Ex.R3) admittedly been made on the instruction of the Chief Engineer Enforcement, Patiala and RW-1 Randhir Singh, Assistant Engineer admitted that when the first checking was done no tampering or theft was detected. Once the meter had been opened and the purpose of the sealing was defeated and there was already a report in favour of the consumer. Thereafter, second checking was done on the basis of which a huge demand had been raised cannot be relied upon. The purpose of sealing the meter is only that the same is not tempered and the process of checking which is done in the ME Lab is in the presence of the consumer to prevent any dispute about this aspect. The regulations of the Corporation are as such that checking is to be done in the presence of the representative of the consumer and the meter is also to be in packed condition.

Once the meter had been dismantled and handed over to the staff of the Sub-Division after checking in the ME Lab which has come on record by the statement of the PW-2 Ranjit Singh, SDO, M.E. Lab that there was no order of Chief Engineer Enforcement to recheck the meter on 14.08.2015 and there are no rules and regulations for rechecking, the reasoning which has been adopted by the Special Court is not liable to be interfered with.

The argument has been raised that the officials were in connivance as such with the consumer who gave report dated 07.08.2015 is not liable to be accepted as it is for the appellant-Corporation as such to keep its house in order and the consumer as such cannot be burdened with a huge demand on the basis of a report of rechecking which is not in consonance with the rules and regulations. Even otherwise no such plea was taken in the written statement nor any issue was got framed on the said aspect, so that evidence could be led regarding the same.

Resultantly, there is no merit in the present appeals and the same are dismissed in limine.

(G.S. SANDHAWALIA)
JUDGE

AUGUST 01, 2018
Naveen

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*