

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

CWP No.1528 of 2019

Date of decision:-21.01.2019

Pardeep Kumar Gupta

.....Petitioner

versus

Punjab State Power Corporation Limited and another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Brijeshwar Singh, Advocate for the petitioner.

TEJINDER SINGH DHINDSA, J.(ORAL)

Challenge in the instant petition is to the order dated 19.01.2018, passed by the Special Judge under Electricity Act, 2003, Moga (Annexure P-3).

Brief facts of the case are that a demand had been raised by the concerned authorities under the Punjab State Power Corporation Limited, Moga from the petitioner for a sum of Rs.1,34,641/- vide letter dated 27.09.2013 as also for a sum of Rs.40,000/- towards compounding charges. The petitioner challenged such demand by filing a petition under Section 154 of the Electricity Act, 2003 and which has been decided vide impugned decision 19.01.2018 (Annexure P-3) upholding the demand.

It would be apposite to take note that an electric connection bearing account No.CK-42/1305 with sanctioned load capacity of 7.93 KW was installed in the premises owned by one Sh.Kuldeep Singh. Present petitioner had taken the premises in question on lease from Rajdeep Singh son of Kuldeep Singh on 19.03.2012 for the period upto 18.03.2017. Petitioner was stated to be running a poultry farm in the leased premises. At the time of commencement of the lease an electric meter bearing

No.1168126 was installed but in the month of December 2012 said meter was burnt. Upon a complaint having been lodged by the petitioner, officials of the respondent corporation provided direct supply to the leased premises but no new meter was installed. The petitioner thereafter deposited the cost of the new meter on 19.07.2013. The old burnt meter was taken away to be checked in the ME Lab. The respondent Corporation thereafter issued to the petitioner a notice dated 27.09.2013 claiming the amount of Rs.1,34,641/- alongwith compounding charges of Rs.40,000/- on the allegations that theft of energy had been committed by the petitioner through the old removed meter and which had been burnt down deliberately by using a hot blower. Such demand having been put to challenge by the petitioner has been upheld vide impugned order dated 19.01.2018, passed by the Special Judge, Moga, under the Electricity Act, 2003.

Counsel for the petitioner has argued that the old meter had got burnt on account of high voltage and had not been intentionally burnt. It is also vehemently contended that the demand of Rs.1,34,641/- as also Rs.40,000/- towards compounding was wholly unjustified as the checking of the meter in the ME Lab was not conducted in the presence of the petitioner. Yet another submission raised by counsel is that at the stage of taking away the old meter, the officials of the respondent Corporation, had called upon the petitioner to sign some blank forms and which have now been misused towards recording his presence at the time of checking of the meter.

Having heard counsel for the petitioner at length and having perused the pleadings on record, this Court is of the considered view that

there is no merit in the instant petition and the same deserves to be dismissed.

In the petition that had been filed by the petitioner under Section 154 of the Electricity Act, 2003, the Additional District Judge, Moga, had framed the following issues on the basis of pleadings of the charges:-

1. *“Whether the demand raised by the respondents to the tune of Rs.1,34,641/- vide demand notice No.1983 dated 27.09.2013 is wrong,illegal, null and void and is liable to be set aside?OPA.*
2. *If issue No.1 is decided in affirmative, whether the petitioner is liable to pay compounding charges as claimed by the respondents?OPA*
3. *Whether the petitioner is guilty of concealment of facts? If so its effect?OPR.*
4. *Relief.”*

Even though it was the case set-up on behalf of the petitioner that his presence at the time of checking of the meter in the ME Lab is being wrongfully recorded on the strength of some blank forms that had been signed yet counsel has not been able to dispute and rebut observations made in the impugned order to the effect that while recording of his deposition, in cross-examination, the petitioner while appearing as PW1 had admitted that checking of the meter in the ME Lab had been done in his presence.

The finding recorded by the Special Judge in the impugned order as regards the old meter having been burnt deliberately is based on due appreciation of oral evidence adduced on record. RW1 Mandeep Singh, SDO, who was one of the members of the checking team had deposed that during the course of checking of the meter in the ME Lab on 25.09.2013, which was in the presence of the petitioner, it had been found that the

meter had been burnt deliberately with a blower and the reading counter had been completely destroyed intentionally and willfully. RW1 further testified that both the terminals from the incoming side to the meter were in place but the screw was opened and which clearly demonstrates that the consumer had been stealing electricity by implying illegal methods.

In the impugned decision dated 19.01.2018, it has also been recorded that the report prepared by the checking staff in the ME Lab bears the signatures of the petitioner and that no objection or challenge to the finding recorded in the checking report had been raised.

It may also be noticed that the petitioner during the course of hearing before the Special Judge under the Electricity Act, had asserted non-compliance with the Sales Regulation No.21.4.1 of the Supply Code, 2014, issued by the respondent Corporation. Even such challenge has been negated on the reasoning that such regulations contained in the Code of 2014 became effective w.e.f. 01.01.2015 whereas the checking of the meter in the facts of the present case pertains to the year 2013 i.e. at a point of time when supply code of 2014 had not even seen the light of the day.

For the reasons recorded above, no infirmity is found in the impugned decision dated 19.01.2018 (Annexure P-3) passed by the Additional District Judge,/Special Judge, Moga, under the Electricity Act, 2003.

Writ petition is accordingly dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

21.01.2019

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No