

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

CWP No.2833 of 2019
Date of decision:-05.02.2019

Sandeep Galhotra

.....Petitioner

versus

Punjab State Power State Corporation Limited and another

.....Respondents

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

Present:- Mr. Rahul Bhargawa, Advocate for the petitioner.

TEJINDER SINGH DHINDSA, J.(ORAL)

The instant petition has been filed seeking quashing of an order dated 12.10.2018 passed by the Appellate Authority under the Punjab State Power Corporation Limited (Annexure P-6).

Counsel for the petitioner has been heard.

Apparently, the petitioner was served with a bill/show cause notice under Section 135 of the Electricity Act, 2003 dated 01.06.2017 (Annexure P-5). The issue was with regard to pilferage of electricity. Petitioner preferred an appeal under Section 127 of the Act and which has been declined by the Appellate Authority, being not maintainable,

Section 154 of the Electricity Act, 2003 reads in the following terms:-

154. Procedure and power of Special Court.-(1)

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence punishable under sections 135 to 140 and section 150 shall be triable only by the

Special Court within whose jurisdiction such offence has been committed.

(2) Where it appears to any court in the course of any inquiry or trial that an offence punishable under sections 135 to 140 and section 150 in respect of any offence that the case is one which is triable by a Special Court constituted under this Act for the area in which such case has arisen, it shall transfer such case to such Special Court, and thereupon such case shall be tried and disposed of by such Special Court in accordance with the provisions of this Act:

PROVIDED that *it shall be lawful for such Special Court to act on the evidence, if any, recorded by any court in the case of presence of the accused before the transfer of the case to any Special Court:*

PROVIDED FURTHER that *if such Special Court is of opinion that further examination, cross-examination and re-examination of any of the witnesses whose evidence has already been recorded, is required in the interest of justice, it may resummon any such witness and after such further examination, cross-examination or reexamination, if any, as it may permit, the witness shall be discharged.*

(3) The Special Court may, notwithstanding anything contained in sub-section (1) of section 260 or section 262 of the Code of Criminal Procedure, 1973 (2 of 1974), try the offence referred to in sections 135 to 140 and section 150 in a summary way in accordance with the procedure prescribed in the said Code and

the provisions of sections 263 to 265 of the said Code shall, so far as may be, apply to such trial:

PROVIDED that *where in the course of a summary trial under this sub-section, it appears to the Special Court that the nature of the case is such that it is undesirable to try such case in summary way, the Special Court shall recall any witness who may have been examined and proceed to re-hear the case in the manner provided by the provisions of the said Code for the trial of such offence:*

PROVIDED FURTHER that *in the case of any conviction in a summary trial under this section, it shall be lawful for a Special Court to pass a sentence of imprisonment for a term not exceeding five years.*

(4) A Special Court may, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to, any offence tender pardon to such person on condition of his making a full and true disclosure of the circumstances within his knowledge relating to the offence and to every other person concerned whether as principal or abettor in the commission thereof, and any pardon so tendered shall, for the purposes of section 308 of the Code of Criminal Procedure, 1973 (2 of 1974), be deemed to have been tendered under section 307 thereof.

(5) The Special Court shall determine the civil liability against a consumer or a person in terms of money for theft of energy which shall not be less than an amount equivalent to two times

of the tariff rate applicable for a period of twelve months preceding the date of detection of theft of energy or the exact period of theft if determined whichever is less and the amount of civil liability so determined shall be recovered as if it were a decree of civil court.

(6) In case the civil liability so determined finally by the Special Court is less than the amount deposited by the consumer or the person, the excess amount so deposited by the consumer or the person, to the Board or licensee or the concerned person, as the case may be, shall be refunded by the Board or licensee or the concerned person, as the case may be, within a fortnight from the date of communication of the order of the Special Court together with interest at the prevailing Reserve Bank of India prime lending rate for the period from the date of such deposit till the date of payment.

Explanation :*For the purposes of this section, "civil liability" means loss or damage incurred by the Board or licensee or the concerned person, as the case may be, due to the commission of an offence referred to in sections 135 to 140 and section 150.*

A perusal of the afore-reproduced provision would make it clear that every offence punishable under Section 135 to 140 and Section 150 shall be triable only by the Special Court within whose jurisdiction such offence has been committed.

Admittedly, the bill/show cause notice dated 01.06.2017 (Annexure P-5) was under Section 135 of the Act.

The remedy for the petitioner as such would lie squarely under
Section 154 of the Act.

No infirmity is found in the impugned order dated 12.10.2018
(Annexure P-6)

Petition is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

05.02.2019

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No