

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.9312 of 2000

Date of Decision:30.04.2019

Vijay Sharma

....petitioner

Versus

Punjab State Electricity Board, Patiala and others

.....respondents

CORAM: HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr.Amit Jain, Advocate
for the petitioner

Mr.S.S.Mattewal, Advocate
for the respondents

RAJIV NARAIN RAINA, J. (ORAL):

1. A domestic electricity connection was provided to the residence of the petitioner on 23.09.1991. All was well till 24.06.1998 when the electric meter suffered damage from sparking. The petitioner avers that the Field Officer was informed of this incident in a complaint in writing made on 26.06.1998 requesting for change of the electric meter. The meter was reported to be burnt by the Junior Engineer of the checking party visiting site. An order was issued on 29.06.1998 to make direct supply. The burnt meter had to be replaced and the new meter was installed much later on 14.09.1998. This resulted in direct supply for about 77 days. The officials admitted that there was delay in replacing the damaged meter due to heavy backlog.

2. On 03.11.1998, the petitioner received a demand notice from the year 1991 to 1998 i.e. the date of installation of the meter, on the basis

of previous meter reading recording lesser consumption and thus there was some tampering done with the meter. The case of the respondent-Board was that the four seals of the meter (ME seals) were found fake and counter and the current coil replaced. The meter was found recording only 48% of the true consumption. This was with regard to the burnt out meter. From this, an inference was drawn by the officials of the Board that this was a case of theft. It was recorded that the account of the petitioner was overhauled for the entire period from 1991 to 1998 and a bill of Rs. 1,60,488/- including Rs.24,954/- towards theft of energy was presented to the petitioner for payment.

3. There may have been a case to pin down the petitioner to a charge of theft of electricity had minimal procedural safeguards been guaranteed to the petitioner before drawing a presumption. The directions in guidelines were breached because the checking was not done in the presence of the consumer or his representative either at the residence where the meter was installed or in the laboratory when test was carried out. It is not the case that the burnt meter was sealed in the presence of the petitioner which bore his identification with name and address etc.

4. The petitioner should have been called to the laboratory when the meter was opened and checked so that it was examined and tested before his eyes. It is this aspect which could, in my considered view, tend to turn the case in favour of the petitioner. This conclusion is drawn from and fortified by the observations of the Dispute Settlement Authority, PSEB, itself in the impugned order dated 01.06.2000. In para No.13 of the order of the Committee comprising of the Chairman and two Members of the Board, the Committee candidly observed that it would have been better if the

checking was done in the presence of the consumer or his representative. In the same breadth these observations have been washed down by adopting a facile reason that the findings of two senior officers in the ME Lab could not be doubted in the absence of any pleading of the petitioner doubting the said officers or that their intentions were actuated by malafides. I am not prepared to accept this argument to outweigh the principles of natural justice which guide that no man can be labelled a thief without existence of evidence against him beyond a reasonable doubt. In the darkness of the laboratory nothing can be said of the intentions of the senior officers. Nothing can be more doubtful of the procedure followed than a one-sided view of the ring.

5. I have little doubt that the petitioner has not been dealt with fairly and honestly in sending him a huge power bill on conjectures and surmises. Mere change of meter from the site and its replacement on 14.09.1998 is also not a satisfactory argument to hold that there was theft in the past on the undisputed facts of this case. Suspicion alone cannot take place of proof. Nor can proof be established in the absence of the consumer being associated with the process from start to finish and he should not be short-changed when the burnt meter was removed and checked behind his back. Accordingly, and for this reason alone, the order deserves to be set aside as the actions of the Board do not inspire the conclusion of theft of electricity retrospectively and which are not beyond a reasonable doubt.

6. As a result of the above discussion, this writ petition succeeds and is allowed. The impugned order is quashed. The amount deposited before the Disputes Settlement Committee for a decision in the first instance and payments made under the interim orders passed by this Court, would be

refunded to the petitioner. The request of Mr.Jain for interest on the amount is declined as it is not claimed in the petition.

30.04.2019
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(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned	Yes.
Whether reportable-	Yes/No