

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA-1385-2019

Date of Decision: March 03, 2020

M/s Saruchi Labels

... Appellant

Versus

Punjab State Power Corporation Limited and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present: Mr. Davinder Kumar, Advocate,
for the appellant.

Ravi Shanker Jha, Chief Justice (Oral)

This appeal has been filed by the appellant-petitioner being aggrieved by an order dated 30.04.2019 passed by the learned Single Judge in CWP-75-2014 dismissing the petition filed by the appellant against order of assessment dated 05.12.2012 passed under Section 126 of the Electricity Act, 2003 (hereinafter referred to as "the Act"), as well as, order dated 19.09.2013 passed by the appellate authority dismissing the appeal.

Brief facts leading to filing of the appeal are that the appellant obtained electricity connection from the respondent for 20 KW in its premises. Admittedly, it, thereafter, installed two sub meters by divisions of its property for two separate rented out portions to two different tenants. On a surprise inspection carried out by the respondent, proceedings under

Section 126 of the Act were initiated against the appellant and thereafter, a notice for deposit of amount of Rs. 2,20,356/- was issued. The appellant, being aggrieved by the order of assessment, filed an appeal before the appellate authority, which was dismissed. Likewise, the writ petition filed by the appellant also met the same fate.

The learned Single Judge, after hearing the counsel for the petitioner (appellant herein) and taking the aforesaid facts into consideration, instructions dated 09.07.2012 issued by the respondent-authorities as well as the Electricity Supply Code and Related Matters Regulations, 2014, dismissed the petition on the ground that the act of the appellant was without the authority of law and therefore, no fault could be found with the action taken by the authorities.

Learned counsel appearing for the appellant submits that the instant case is not one of theft of electricity and does not fall within the definition of unauthorized use of electricity and in such circumstances, the provisions of Section 126 of the Act could not be invoked by the authorities to impose punishment/penalty of Rs. 2,20,356/-. He submits that the learned Single Judge has failed to take into consideration this important aspect and therefore, the impugned order suffers from perversity.

We have heard learned counsel appearing for the appellant at length.

We have perused Section 126 of the Act and we have also taken into consideration instructions dated 09.07.2012 and Regulations 2014, specifically the parts that have been quoted by the learned Single Judge in his order. From a perusal of Section 126(6)(b) of the Act, it is evident that unauthorized use of electricity includes any means used by the consumer not authorized by the concerned person or authority or licensee and use of electricity for any purpose other than for which the usage of electricity was authorized. As is evident from the facts of the present case, the electricity connection had been obtained by the appellant for its personal consumption and in such circumstances, unless a separate meter is applied for and is installed, the same could not be used for electricity consumption. Instructions dated 09.07.2012 make it further clear that in normal cases in case, an approval has been taken from the authorities for utilization of the electricity by any other party in the very same premises, such consumption shall not be treated as unauthorized use of electricity.

In the instant case, admittedly, no approval was taken by the appellant from the concerned authority and in such circumstances as the electricity was being distributed by the appellant without approval, to two separate consumers by installing sub meters without the necessary authorization, as contemplated in law, we find that the act of the appellant

amounts to unauthorized use of electricity and in such circumstances, no fault can be found with the order passed by the authorities under Section 126 of the Act or with the order passed by the learned Single Judge.

Thus, we do not find any illegality or perversity in the impugned order passed by the learned Single Judge warranting interference in it.

Accordingly, the present appeal is dismissed.

(Ravi Shanker Jha)
Chief Justice

March 03, 2020
vkd

(Arun Palli)
Judge

Whether speaking / reasoned	:	Yes / No
Whether reportable	:	Yes / No