

CWP No. 14963 of 2022

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

CWP No. 14963 of 2022

Date of Decision: 15.07.2022

Punjab State Power Corporation Limited and another

-Petitioners

Versus

Manjinder Singh and others

-Respondents

CWP No. 15005 of 2022

Punjab State Power Corporation Limited and another

-Petitioners

Versus

Jagdish Singh and others

-Respondents

CWP No. 15012 of 2022

Punjab State Power Corporation Limited and another

-Petitioners

Versus

Manpreet Singh @ Majit Singh and others

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Ms. Gurpal Kaur Daulat, Advocate,
for the petitioners.

RAJ MOHAN SINGH, J.

Vide this common order, CWP No.14963 of 2022

titled 'Punjab State Power Corporation Limited and another vs

Manjinder Singh and others', CWP No.15005 of 2022 titled 'Punjab State Power Corporation Limited and another vs Jagdish Singh and others' and CWP No.15012 of 2022 titled 'Punjab State Power Corporation Limited and another vs Manpreet Singh @ Majit Singh and others' are being disposed of.

Since common questions of law and facts are involved, therefore, facts are being taken from CWP No.14963 of 2022.

Petitioners have preferred this writ petition for the issuance of an appropriate writ in the nature of certiorari quashing the impugned order dated 31.07.2019 passed by respondent No.2- Permanent Lok Adalat vide which the application filed by the respondent was allowed and respondent was held not liable to pay Rs.57,344/- as assessed by the petitioners on the ground that there was mis-user of electric connection by the respondent while irrigating the wheat crop directly by bye-passing the fountain sprinkle system for unauthorized use of electricity. Memo No.2368 dated 28.11.2016 was issued by the Assessing Officer, Assistant Executive Engineer, Sub Urban Sub Division, Nawanshaher, calculating the net chargeable amount to the tune of Rs.57,344/- after deducting an amount of Rs.53,495/- from total calculation

of Rs.1,10,689/-.

The material on record would show that the respondent no.1 is an agriculturist and applied for electric connection for operating sprinkle system. The electric connection was released and the tubewell came in operation on 25.12.2012. Respondent No.1 was growing vegetable crops by operating sprinkle system within the scope of the scheme. In the month of November/December, 2015 the respondent No.1 harvested his vegetable crop and after harvesting, there is no season left for growing vegetables as the seeds of vegetables were not available. Faced with the situation, the respondent no.1 has sown wheat crop on the same area. S.D.O. Rural PSPCL, Nawanshahr inspected the electric connection of the respondent No.1 and found use of unauthorized energy as a theft case.

A demand notice No.244 dated 09.02.2016 was issued to the respondent no.1 with a direction to pay an amount of Rs.53,495/-. In compliance of the aforesaid letter, the respondent no.1 paid the aforesaid amount. Respondent no.1 never sown any wheat crop thereafter. It was not permissible under the scheme. Prior to sowing of the crop of wheat, there was no such instance of doing the same mistake. It was a solitary instance for which respondent No.1 was punished in a

sum of Rs.53,495/-. Wheat crop is not an annual crop.

The Permanent Lok Adalat took notice of the fact that the respondent no.1 has already been charged and deposited Rs.53,495/- for directly irrigating rabi crop (wheat) when he could not sow the vegetables. Charging of Rs.1,10,839/- for the whole year was held to be not justified. Single use of irrigation facility for four to five months in a year was held to be double punishment. Petitioner- Corporation could not tender any such evidence, justifying doubling of penalty for a single default that too in respect of a seasonal crop of four to five months duration.

Learned counsel for the petitioners submits that an amount of Rs.1,10,839/- was calculated after applying correct formula as per regulations of the Supply Code, 2014.

Having heard learned counsel for the petitioners, I find that the impugned action in charging additional amount of Rs.57,344/- over and above the already deposited amount of Rs.53,495/- is wholly unjustified. Earlier, in view of single default in sowing wheat crop against the purview of the scheme, respondent No.1 was issued a demand notice no.244 dated 09.02.2016 vide which he was directed to pay an amount of Rs.53,495/-. The said amount was duly paid by respondent No.1. Thereafter, memo no.2368 dated 28.11.2016 was issued thereby making the penalty amount to be double of the amount

already paid by respondent No.1. The unauthorized use of electricity and such unauthorized use of electricity can be appreciated in terms of assessment which shall be made for the entire period during which such unauthorized use has taken place.

In the instant case, unauthorized use is in respect of single instance of mis-user qua wheat crop. The same was only for four to five months. The period is fully ascertainable and the assessment has to be made for the entire period of such unauthorized use of electricity. Period of 12 months can only be applied in case period of unauthorized use of electricity cannot be ascertained. Even in case of assessment of electricity charges in case of theft, the period can be suitably reduced if the authorized officer for the reasons to be recorded in writing is satisfied that the theft of electricity has actually taken place for a lesser period.

In the present case, since respondent No.1 was earlier charged and had deposited an amount of Rs.53,495/- for unauthorized use of electricity for a definite period of four to five months, therefore, additional amount of Rs.57,344/- by treating unauthorized use of electricity for a period of 12 months is wholly irrational and does not correspond to regulation 36 of the Supply Code, 2014.

In view of aforesaid facts, I find no ground to interfere in these writ petitions.

All these petitions stands *dismissed*.

15.07.2022

Jyoti Sharma

(RAJ MOHAN SINGH)
JUDGE

- 1. Whether speaking/reasoned : Yes/No
- 2. Whether reportable : Yes/No