

**CM-2868-LPA-2019 &
LPA-1316-2019 &
CM-2869-LPA-2019**

Date of Decision: 7th April, 2022

SAROJ BALA

...APPELLANT

Versus

**PERMANENT LOK ADALAT FOR PUBLIC UTILITY SERVICES
AND OTHERS**

...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. B.S.Mittal, Advocate,
for the appellant.

AUGUSTINE GEORGE MASIH, J.

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Prayer in this application is for condonation of delay of 110 days in filing the appeal.

2. The ground, which has been mentioned by the applicant-appellant, is that the son of the applicant-appellant was informed by the counsel about the dismissal of the writ petition, which was preferred by the appellant, on 14.12.2018. The son of the appellant failed to inform her about the dismissal of the case nor was she aware of the fact that the limitation for filing of the appeal is only 30 days. Because of the communication gap and in the absence of the factual position, the appeal could not be filed earlier.

3. It is only after respondent No. 2-Dakshini Haryana Bijli Vitran Nigam Ltd. (hereinafter referred to as 'Nigam') served a notice dated 22.05.2019 regarding recovery of the pending amount against the applicant-appellant that she approached her counsel and it is, thereafter, the present application along with the appeal has been filed on 31.05.2019. The delay is neither deliberate nor intentional nor would the applicant-appellant gain anything out of the said delay. Prayer has, thus, been made for condoning the delay in the present appeal.

4. We are unable to accept the plea which has been taken by the applicant-appellant in filing the present appeal. However, the counsel was called upon to refer to the merits of the appeal as well and put forth his submissions on merits.

5. Learned counsel for the applicant-appellant contends that the order passed by the learned Single Judge is not sustainable as the Court has failed to appreciate that in the subsequent readings, which have been recorded in the meter after change of the same, the average monthly unit never exceeds 907 units per month whereas the consumption detail of Account No. M-3-41/0044 reflects that the average consumption never crossed 2499 units per month whereas the bill has been raised for showing consumption 59427 units. These units cannot, therefore, said to be the correct.

6. It is further contention of the learned counsel for the appellant that although the electricity meter was removed and taken by the officials of the Nigam in the presence of the appellant and the witnesses but M&T Lab, where the meter was sent for checking, is not the place where it should have been sent rather it is the Electrical Inspector to decide as to whether the

meter was correct or faulty. In support of this contention, he has placed reliance upon the judgment of the Hon'ble Supreme Court in **M.P.E.B. and others vs. Smt. Basantibai**, 1988 AIR (SC) 71. He, on this basis, contends that the impugned order dated 14.12.2018 passed by the learned Single Judge cannot sustain and deserves to be set aside. Prayer has also been made for setting aside the order dated 13.01.2015 (Annexure P-3) passed by the Permanent Lok Adalat, Public Utility Services, Sirsa-respondent No. 1 as also the Notice dated 09.10.2012 (Annexure P-2) issued by the Sub-Divisional Officer, Dakshini Haryana Bijli Vitran Nigam Ltd., OP, Sub-Division, Dabwali, District Sirsa-respondent No. 4, whereby the demand has been raised for additional charges of consumption of 59427 units.

7. We have considered the submissions made by the learned counsel for the appellant but are unable to accept his contentions.

8. The facts are that the electricity connection No. M-3-41/0044 was installed in the name of the appellant at her seed factory near FCI Godown, Kabeer Basti, Mandi Dabwali, District Sirsa. The officials of the respondent-Nigam visited the site and inspected the meter installed in the premises on 20.09.2012. The said meter was found to be installed on the wall outside the premises, from which the supply was being derived for the seed factory. The said meter was removed from the said place and sent to the M&T Lab to check the accuracy thereof as the same was doubted. The meter was packed in the presence of the witnesses and proper videography was done. Electricity supply was restored through another meter which was installed at the site. As per the report of the M&T Lab, the meter was found to be working in a proper manner and the consumption of the units was 59427. On the basis of the said report, bill was raised after deducting the

previous billed units which included the average bills which were being received by the appellant and she had paid the same.

9. The stand of the appellant was that as per the newly installed meter, the consumption never crossed 2499 units per month whereas the bill has been raised for consumption of 59427 units, which was much higher and susceptible to doubt. This was asserted in the light of the fact that the meter, on re-checking, has been found to be working correctly. If the meter was running correctly, there was no question of firstly, sending the average bills and secondly, claiming additional consumption units. Even the latest consumption pattern, after the change of the meter, showed 907 units per month. This being the basis, counsel had asserted that the impugned order cannot sustain and deserves to be set aside.

10. We have considered the submissions made by the learned counsel for the appellant and with his assistance, have gone through the pleadings and the records of the case.

11. It is not in dispute that the meter, which was initially installed in the premises of the appellant, when removed and taken for checking at the M&T Lab has been found to be running working correctly. The said report further reflects that the consumption shown on the meter was 59427 units. Obviously, the consumption shown in the meter in units, if the earlier bills have been charged on average basis, would be the one which would be the actual units consumed i.e. 59427 minus the electricity consumption charges paid for the units as per the bill on average.

12. According to the admitted position, the appellant had paid the electricity consumption charges of 21094 units. She having consumed total electricity units as 59427 and deducting from them those 21094 units, the

remaining units would be the one, for which she had to be charged and she was liable to be paid.

13. The claim, which has been put forth by the respondent-Nigam, is only for the units which have been consumed by the appellant, for which, no consumption charges have been claimed nor paid by the appellant, meaning thereby that after the adjustment of the amount, which has been paid by the appellant as per the bills raised by the respondent-Nigam, the remaining amount is due towards the appellant, which leaves no manner of doubt that the action of the respondents is fully justified especially when the report of the M&T Lab, where the checking of the meter was carried out and the same has been found to be working correctly, is not under challenge. The learned Single Judge as well as the Permanent Lok Adalat had proceeded to consider these aspects and had come to the conclusion that the respondent-Nigam has only put forth the claim for the units which the appellant is liable to pay for as consumed units.

14. As regards the judgment of the Hon'ble Supreme Court, which has been relied upon by the learned counsel for the appellant in Smt. Basantibai' case (supra), suffice it to say that the said judgment would not be applicable to the case in hand as factually, the said writ petition is on a different footing altogether where the question was with regard to the scope and Section 26 (6) of the Electricity Act, 1910. It is while dealing with the said aspect, it was held that the dispute as to whether the meter was correct or faulty was to be decided by the Electrical Inspector and it is in this context that the said case was considered and decided whereas in the present case, no such issue arises for consideration.

15. As regards the stand of the counsel for the appellant that the

average consumption units are much less than what has been charged by the respondents, suffice it to say that it varies on circumstances in which the consumer uses its gadgets/equipment and machines. If in a given span of time, the bill has not been generated for the said period, for which it has been claimed, that cannot be a ground for taking into consideration the units utilized for the subsequent period.

16. In view of the above, we do not find any ground for interfering in the present appeal and, therefore, dismiss the same.

CM-2869-LPA-2019

In view of the dismissal of the main appeal, the present application for stay has been rendered infructuous and the same is disposed of as such.

(AUGUSTINE GEORGE MASIH)
JUDGE

(SANDEEP MOUDGIL)
JUDGE

7th April, 2022
pj

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No