

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

107

CWP-31755-2019 (O&M)
Date of Decision: 29.10.2022

YASH KUMAR VARMA

... Petitioner

Versus

STATE OF HARYANA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. G.S. Sullar, Advocate with
Mr. Devaki Anand Sullar, Advocate and
Mr. Akun Sheemar, Advocate for the petitioner.

Mr. Vivek Chauhan, Addl. A.G., Haryana.

Mr. Arvind Seth, Advocate
for respondents No.2 to 5.

VINOD S. BHARDWAJ, J. (ORAL)

The present writ petition has been filed under Articles 226/227 of the Constitution of India, 1950 seeking issuance of a writ in the nature of Mandamus directing the respondents to rectify the electricity bills dated 16.11.2018, 17.12.2018 and 10.01.2019 (Annexures P-5 to P-7) by adjusting the amount of Rs.2,00,000/- already paid by the petitioner.

Submission made by the learned counsel for the petitioner was that the petitioner had set up a health club namely 'Xtreme Fitness Pvt. Ltd.', which was subsequently closed in August, 2018 and there had no activity in the said fitness club since then. Only a security guard was posted to take care of the premises and for security of the assets lying therein. It is pointed out that during the period when the petitioner was running the operation, the electricity bills generated were in the range of Rs.25,000/- to Rs.35,000/- per month.

Reliance in this regard is placed to the prior electricity bills. However, after the

closure of the fitness club, the bill amount has been enhanced in an exaggerated manner. He points out that a complaint in this regard was duly submitted on the C.M. Window, in response where to, the respondents have uploaded as under:

“The Grievance of the complainant has been checked and found that the consumer has been contacted personally by the undersigned in the office as well as telephonically and explained the detailed reason for excess billing which was done due to the wrong installation of capacitor bank in the consumer premises by himself due to which the KVAH factor was increased in the meter and consumer was billed for the amount more than his use but was actual as per the Nigam Rules, as it was increasing due to the mall functioning of wrong capacitor bank installed by the consumer and the complete amount is payable. The consumer requested for part payment of the huge amount which was duly granted by the undersigned and because of that consumer paid 2 Lac Rs in October-2018 against the actual bill of approximately 4 Lacs Rs. So the complete amount is payable as per Nigam Rules.”

He further points out that after the filing of the present petition, the respondents have removed the meter from the premises of the petitioner and that despite removal of the meter from the premises, the petitioner was being billed. He further submits that the respondents have taken a contradictory stand in the response so filed on the C.M. Window Action Taken Report Portal. It is the stand of the respondents that there was a wrong billing due to wrong installation of capacitor bank in the premises of the petitioner, due to which KVAH factor was increased in the meter. It is also stated that there was a malfunctioning wrong capacitor bank by the consumer. The part payment has already been received.

A written response was filed by the respondents wherein it was categorically pointed out by the said respondents that the petitioner was liable since he had installed the capacitor bank on his own and due to installation of the capacitor bank, KVAH factor was increased which showed an increased consumption. The petitioner did not give information about the installation of the said capacitor bank to the respondents. Resultantly, the bills were being issued to the petitioner as per the actual consumption/reading recorded in the said meter. Upon receipt of the request of the petitioner, the amount of Rs.2,00,000/- has been credited to the account and there is an outstanding amount. The disconnection of the electricity was on account of the deficiency on the part of the petitioner in non-payment of the outstanding bills as per his own consumption charges. A further objection was raised by the respondents that the writ remedy is not the appropriate remedy in the given facts of the case and there is an alternative efficacious remedy available to the petitioner in terms of Section 42 of the Electricity Act, 2003 and as per the Regulations of 2004 framed by the HERC.

No valid justification for not taking recourse to the statutory remedy available to the petitioner has been set out in the present petition. An argument of mere hardship has been raised.

Needless to mention that a hardship alone cannot be the cause of not taking recourse to the statutory remedy available in accordance with law. Section 42 of the Electricity Act, 2003 provides for alternative efficacious remedy in the form of establishment of Forum for redressal of the grievances of the consumer in the event of any billing dispute and also provides for the reference/redressal by a consumer before the Ombudsman. There is no specific reason as to why the petitioner ought not to take recourse to the remedies

available to him as per the provision of the statute and no exceptional circumstance has been made out as to why the High Court should exercise its writ jurisdiction under Article 226 of the Constitution of India at the initial juncture especially when the dispute is a billing dispute.

Be that as it may, the present petition is accordingly disposed of at this stage with liberty to the petitioner to approach the Consumer Grievance Redressal Forum, established under the Electricity Act, 2003 for redressal of his grievance.

Noticing the fact that the respondents have themselves acknowledged in their response that a wrong capacitor bank had been installed by the petitioner which showed a higher consumption, the petitioner shall not be called upon at this stage to deposit any amount higher than the amount already deposited by the petitioner till adjudication of his grievance by the Consumer Grievances Redressal Forum. Counsel for the petitioner shall approach the Consumer Grievances Redressal Forum within a period of four weeks from today, whereupon an expeditious decision shall be taken. Any application for seeking re-connection shall thereafter be considered in a time bound manner.

Petition is accordingly disposed of with the liberty as aforesaid.

Other misc. application(s), if any, shall also stand disposed of accordingly.

29.10.2022
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No