

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

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**CWP-29337-2022 (O&M).
Date of Decision: 19.12.2022.**

M/s Raj Palace Hotel

...Petitioner

Versus

Dakshin Haryana Bijli Vitran Nigam Limited and others

...Respondents

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

Present: Mr. Ram Darshan Yadav, Advocate for the petitioner.

VINOD S. BHARDWAJ. J (ORAL)

The present writ petition has been filed raising a challenge to the award dated 07.11.2022 (Annexure P-3) passed by the Permanent Lok Adalat (Public Utility Services), Rewari and further for seeking issuance of directions to the respondents not to recover the amount of Rs.5,84,340/- under the head of sundry charges.

Notice of motion to respondents No.1 to 3 only.

Mr. Vivek Saini, Addl. A.G., Haryana, who by virtue of his assignment would thus also be on the panel of all the Statutory Boards and corporations of the State of Haryana, is requested to and accepts notice on behalf of the aforesaid respondents.

Learned counsel appearing on behalf of the petitioner contends that the petitioner firm deals in the hotel business/hospitality and electric connection bearing Account No.038081333 has been installed therein. The petitioner has been regularly paying all the electricity bills for the consumption of electricity recorded. However, in May 2019, the respondents claimed an amount of Rs.5,84,340/- under the head of sundry charges against the said electricity connection even though there was no outstanding against the same.

Aggrieved thereof, the petitioner preferred an application under Section 22 (C) of the Legal Services Authorities Act, 1987 before the Permanent Lok Adalat (Public Utility Services), Rewari.

A response was filed by the respondents to the claims made.

Upon consideration of the respective submissions made by the learned counsel for the parties, the application filed by the petitioner was dismissed. Hence, the present petition.

Learned counsel for the petitioner contends that the reason for levying the sundry charges had not been conveyed to the petitioner and that he had been duly depositing all the electricity consumption charges to the respondents. He has further placed reliance on the provisions of Section 56 (2) of the Electricity Act, 2003, to contend that the demand in question could not have been raised from the petitioner as the same was more than two years old.

I have heard the learned counsel for the petitioner and have also gone through the impugned award.

Relevant extract of the impugned award is extracted as under:-

“8. Learned counsel for the respondents, on the other hand, has argued that there is no illegality in the demand raised by the respondents. He has further argued that the demand was raised by the respondents from the applicant in view of the sales circular No.D-13/2015 and the same was effective from 01.04.2015 and in view of the Dakshin Haryana Bijli Vitran Nigam Internal Audit Department Half Margin Ex.D1 the amount of Rs.5,85,059/- was calculated. He has further argued that the provisions of Section 56 (2) of the Electricity Act 2003 are not applicable in the present case in view of law laid down in the case law titled '**M/s Prem Cottex Versus Uttar Haryana Bijli Vitran Nigam Ltd. & Ors. Civil Appeal No.7235 of 2009 decided on 05.10.2021**' by Hon'ble Supreme Court of Learned counsel for the respondents, thus, argued in these circumstances the present application, filed by the applicant, may kindly be dismissed.

9. We have heard the rival contentions of the learned counsel for the parties and have perused the case file very carefully.

10. In the present case the dispute is with regard to the legality Ambont of Rs.5,84,340 claimed by the respondents from the applicant. It is correct that the applicant had been paying the electricity bills as per the consumption showing in the bills issued by the respondents. However, the respondents have raised the amount of Rs.5,84,340/- in view of sales circular No.D-13/2015 (Ex.D2). As per the sale circular the consumers were required to pay as per KWH reading P.F. (Power Factor) 0.9 instead of KVAH reading. In view of the Dakshin Haryana Bijli Vitran Nigam Internal Audit Department Half Margin Ex.D1 the account of the applicant-firm was re-calculated an amount of

Rs.5,85,058/- was found against the applicant. There was not illegality in the calculation of the amount of Rs.5,85,058/- because the same was calculated by the respondents in view of the provisions of sale Circular Ex.D2. Moreover the sale circular issued by the respondents cannot be challenged in this Court. The sale circular issued by the respondents can only be challenged before the Hon'ble High Court.

11. The argument of the learned counsel for the applicant that the recovery of Rs.5,84,340/- is time barred in view of Section 56 (2) Electricity Act 2003, is not convincing in view of law laid down in case law titled "M/s Prem Cottex Versus Uttar Haryana Bijli Nigam Ltd. & Ors." (supra) wherein the Hon'ble Supreme Court has held that

"The negligence on the part of the licensee which led to short billing in the first instance and the rectification of the same after the mistake is detected, is not covered by Sub-section (1) of Section 56. Consequently, any claim so made by a licensee after the detection of their mistake, may not fall within the mischief, namely, "no sum due from any consumer under this Section", appearing in Sub-section (2)."

It is evident from a perusal of the above that sundry charges were being demanded in consonance with the Sale Circular No.D-13 of 2015 (EX.D-2) whereby the consumers were required to pay the energy consumption charges under the kVAH reading instead of kWH reading on the basis whereof the bills had been raised. The aforesaid sale circular has not been a subject matter of challenge. Besides, in so far as the

interpretation and scope of Section 56 (2) of the Electricity Act, 2003, is concerned, the same has already been interpreted by the Hon'ble Supreme Court in the matter of *M/s Prem Cottex Vs. Uttar Haryana Bijli Vitran Nigam Ltd. And others, Civil Appeal No.7235 of 2009, decided on 05.10.2021.*

Learned counsel for the petitioner could not controvert the applicability of the ratio of the aforesaid judgment.

I, thus, find no illegality, perversity, impropriety or non-appreciation of the evidence by the Permanent Lok Adalat (Public Utility Services), Rewari, in its impugned award dated 07.11.2022 (Annexure P-3).

The present petition is, accordingly, dismissed. Liberty, however, is granted to the petitioner raise a challenge to the sale circular D-13 of 2015, if so advised.

December 19, 2022
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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