

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

258-1

CWP-5739-2021

ANUJ SOOD

... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

... Respondents

AND

258-2

CWP-1711-2022

Date of Decision: 30.01.2023

IQBAL KAUR CHEEMA

... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

... Respondents

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

Present: Mr. Abhishek Ghangas, Advocate for
Mr. Arnav Sood, Advocate for the petitioner(s).

Mr. Karanjit Singh, Addl. A.G., Punjab.

Mr. B.S. Khehar, Advocate
for respondents No.2 to 4 in
CWP-5739-2021.

Mr. Vikas Chatrath, Advocate and
Ms. Tanya Sehgal, Advocate
for respondents No.2 and 3 in CWP-1711-2022.

Mr. G.S. Dhaliwal, Advocate
for respondent No.4 in CWP-1711-2022.

VINOD S. BHARDWAJ, J. (ORAL)

Instant order shall dispose of the aforesaid two writ petitions since identical question emerges for determination in the present set of petitions. For the facility of reference, the facts are being extracted from CWP-5739-2021 titled as 'Anuj Sood Vs. State of Punjab and others'.

The present writ petition has been filed under Articles 226/227 of the Constitution of India, 1950 seeking issuance of a writ of Certiorari for quashing of the order dated 29.01.2021 (Annexure P-8) passed by Appellate Authority-cum-Senior Executive Engineer P&M Division, PSTCL, Jalandhar being non-speaking, unreasoned, against the principles of natural justice and violative of Article 21 of the Constitution of India.

Learned counsel for the petitioner contends that the petitioner has an electric connection bearing Account No.3002337662 in the name of his mother namely Smt. Sneh Lata Sood (since deceased) in his shop run by him under the name of "Sood Medical Traders Pvt. Ltd." at Bassi Khawaji, Hoshiarpur. It is further averred that a provisional order of assessment was issued by the assessing officer for Unauthorized Use of Electricity (hereinafter referred to as 'UUE') and an amount of Rs.3,61,381/- was assessed to be payable by the mother of the petitioner. Thereafter, a final order of assessment was passed by the Sub Divisional Officer, Sub-Division Model Town, Hoshiarpur affirming the order of provisional assessment.

Aggrieved of the said final order of assessment, statutory appeal under Section 127 of The Electricity Act, 2003 had been filed by the mother of the petitioner before the Appellate Authority i.e. Senior Executive Engineer, P&M Division, PSTCL, Jalandhar. The grounds of appeal have been appended alongwith with the present petition as Annexure P-4. Mandatory pre-deposit to the extent of half of the impugned amount i.e. Rs.1,80,700/- was also deposited by the mother of the petitioner under protest.

The Appellate Authority, however, dismissed the appeal by passing a non-speaking order dated 29.01.2021 (Annexure P-8), which has been impugned herein. The impugned order reads thus:

"That this case has been filed in the court of the undersigned and in this case, the consumer Smt. Sneh Lata has been directed to

pay 50% amount of Rs 3,61,381/- in the account of PSPCL for admission of the present appeal.

This case was listed for hearing on 10.12.2020. On the said date, the consumer was present but the concerned office was not present and the case was adjourned to 15.12.2020.

On 15.12.2020 a representative of the consumer was present but the concerned office was not present and the case was adjourned to 22.12.2020.

On 22.12.2020 both parties were present but since the undersigned was unwell, the case was adjourned to 5.1.2021.

On 5.1.2021 both parties were not present and the case was adjourned to 12.1.2021.

On 12.1.2021 both parties were present and the copy of the reply produced by the concerned office was given to the consumer and he was directed to file a rejoinder on the next date. The consumption data of last three years with MDI and SAP report was called from the concerned office and the case was adjourned to 22.1.2021.

On 22.1.2021 both parties were present and the concerned office was directed to give reply to the reply filed by the consumer. In case there is a videography in the present case then the same may be produced on the next date and the case was adjourned to 29.1.2021.

On 29.1.2021 both parties were present and both presented their sides of case.

The appellate authority heard both the parties and decided that the amount charged by the concerned office is correct.”

Learned counsel for the respondents have been confronted with the above said order and called upon to demonstrate as to whether the said order can be termed as a reasoned and speaking order.

The perusal of the aforesaid order shows that the same is merely a sequential reproduction of the dates of the zimni orders on which the case had

been taken up and it nowhere dealt with the arguments advanced by the respective parties before the Appellate Authority.

Learned counsel for the respondents could not controvert the fact that order in question may not satisfy the requirement of speaking and reasoned order and concedes that the principles of natural justice would necessitate that the Appellate Authority must pass a speaking and reasoned order after noticing the contentions raised and objectively dealing with the same before recording the final conclusion.

Having considered the rival submissions raised above and having also gone through the impugned order, I am of the opinion that the said order is not a reasoned and speaking order. As a matter of fact, the order actually has been summed up in one line itself, which reads thus:

“The appellate authority heard both the parties and decided that the amount charged by the concerned office is correct.”

Such an order would not satisfy the principles of natural justice or be termed as a speaking order. The same is accordingly set aside and the matter is remanded to the Appellate Authority with a direction to pass the order afresh in accordance with law after granting an opportunity of hearing to the parties concerned. The parties shall appear before the Appellate Authority on 27.02.2023 whereafter the Appellate Authority shall proceed to deal with the matter in accordance with law.

Both petitions stand allowed accordingly.

30.01.2023
rajender

(VINOD S. BHARDWAJ)
JUDGE

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