

2024:PHHC:101771



IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

225

CWP-11761-2020
Date of Decision: 07.08.2024

SEEMA MEHTA

... Petitioner

VERSUS

PUNJAB STATE POWER CORPORATION LIMITED
AND OTHERS

... Respondents

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

Present: Mr. Amit Dhawan, Advocate
for the petitioner.

Mr. Abhilaksh Grover, Advocate
for respondent No.1.

Ms. Akshita Chauhan, DAG, Punjab
for respondents No.2 and 3.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present petition is to the impugned order dated 17.03.2020 passed by the Sub Divisional Magistrate-cum-Appellate Authority, Balachaur, District S.B.S Nagar as well as to the order dated 24.05.2018 passed by the S.D.O., Punjab State Power Corporation Ltd., Balachaur, District S.B.S Nagar under Section 127 of The Electricity Act, 2003.

Learned counsel for the petitioner contends that the petitioner is running a firm in the name and style of Punjabi Tadka, Rakkran Bet, Tehsil Balachaur, District S.B.S Nagar. She applied for electricity connection with a connected load of 39.4 kw. It is contended that the petitioner had been using the electricity supply as per the applicable terms and conditions. The officials of the



respondent-PSPCL checked the electricity meter installed at the premises of the petitioner on 14.07.2011 and no violation of any nature was detected at the spot, however, while checking another connection bearing No.N-22-BL-00460 installed in the premises of M/s RSB Straw Mills situated adjacent to the premises of the petitioner, the Authorities alleged that supply of NRC connection was being run through generator via a change over switch. Accordingly, a provisional order of assessment under Unauthorized Use of Energy was conveyed to the petitioner for a sum of Rs.4,79,754/-. The petitioner filed objections against the said order of provisional assessment and that instead of deciding the same, a final order of assessment was passed vide memo No.2071 dated 14.09.2011 assessing the liability at Rs.4,39,754/-.

Aggrieved thereof, the petitioner filed an appeal before the Appellate Authority, which was allowed vide order dated 05.06.2015 and remanded the case to the Assessing Authority to pass a fresh order after affording an opportunity of hearing.

A fresh final order of assessment was passed by the assessing Authority on 11.02.2016. Alleging non-compliance of the order of remand dated 05.06.2015, the petitioner preferred yet another appeal before the Appellate Authority after depositing 50% of the amount as assessed. On considering the merits, the appeal was allowed again and the Appellate Authority recorded that there was non-compliance of the order dated 05.06.2015. The matter was remanded again and the assessing Authority was directed to pass a fresh order keeping in view the Regulation No.36 and 37 of



the Electricity Supply Code as well as considering the premises of the petitioner as a restaurant.

Thereafter, order of assessment was passed yet again by the assessing Authority vide memo No.977 dated 24.05.2018, whereby the Unauthorized Use of Energy charges were assessed at Rs.5,27,083/- as against the earlier assessment of Rs.4,39,754/-. When the petitioner preferred an appeal before the Appellate Authority, she was directed to deposit 50% of the above said assessed amount.

Learned counsel for the petitioner contends that earlier the assessment was for a sum of Rs.4,39,754/- and that 50% of the said amount has already been deposited by her. He contends that since there is a revision of the penalty levied upon by respondent No.3 while passing the fresh order, she is requested to deposit the differential amount so as to make good 50% of the amount as assessed by respondent No.3. The petitioner was also required to deposit a fee of 0.5% of the assessed amount subject to minimum of Rs.100/-. Counsel for the petitioner further contends that the petitioner is ready and willing to deposit differential amount and the fee of 0.5% as required.

Heard.

Considering the aforesaid submissions advanced by the counsel for the petitioner and noticing that the petitioner has lost her statutory remedy of appeal on account of non-depositing of 50% of the assessed amount as a condition for entertaining the appeal and on account of non-payment of 0.5% fee, which the petitioner is willing to make good, the present writ petition



deserves to be allowed. The impugned order dated 17.03.2020, passed by the Appellate Authority is hence set aside subject to the petitioner depositing the differential amount to make up 50% of the final order of assessment under challenge and on her paying the prescribed statutory fee for entertaining the appeal. The parties shall appear before the Appellate Authority on 13.09.2024, whereupon a fresh order shall be passed by the Appellate Authority in accordance with law after granting proper opportunity of hearing to the respective parties.

Petition stands allowed accordingly.

AUGUST 07, 2024
rajender

(VINOD S. BHARDWAJ)
JUDGE

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