



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

206

CWP-14565-2016 (O&M)
Date of decision: 08.08.2024

Paramjit Singh

...Petitioner

VERSUS

Punjab State Power Corporation Ltd. and another

...Respondents

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

Present :- Mr. Rajinder Sharma, Advocate for the petitioner.

Mr. Pankaj Bhardwaj, Advocate for the respondents.

VINOD S. BHARDWAJ, J. (Oral)

1. Challenge in the present petition is to the order of assessment dated 08.02.2010 issued by respondent No.2 under Section 126 of the Electricity Act, 2003 as well as to the order dated 03.03.2016 passed by the Sub-Divisional Magistrate, Baba Bakala Sahib, District Amritsar as the Appellate Authority under Section 127 of the Electricity Act, 2003 dismissing the appeal.

2. Learned counsel for the petitioner contends that the petitioner was served notice under Section 126 of The Electricity Act, 2003 for provisional assessment bearing memo No.13 dated 08.02.2010 whereby he was directed to deposit an amount of Rs.91,340/- on account of an alleged unauthorized use of electricity. The objections against the said provisional assessment were submitted by the petitioner on 12.02.2010, however,



instead of taking decision on the said objections, the petitioner was directed to deposit the amount as provisionally assessed. Aggrieved thereof, an Appeal bearing No.2BBS dated 06.03.2015 was filed by the petitioner before the Sub-Divisional Magistrate, Baba Bakala Sahib, District Amritsar. The said appeal was dismissed vide order dated 03.03.2016 by recording as under:-

“After perusing the written arguments of the counsel and record of the file, the court has come to the conclusion that the checking conducted by the officers on 20.01.2010 for connection NO.RW37/1012 of Bahal Singh R/o Rayya, in that it is clearly written that meter of the consumer was broken from the upper side and the seals were also doubtful. It be got tested from M.E. lab Batala. After getting the meter check from M.E lab the case of theft by the consumer was found. In this regard the Assistant Executive Engineer (D) Punjab Govt. Power Corporation Ltd. Rayya issued assessment order Memo NO. 132 dated 8.2.2010 to the consumer, in response the appellant Sh. Paramjit Singh filed applicant before SDO Punjab State Power Corporation Ltd. and stated that the penalty imposed on his meter NO. T-56 R.M 371012A he wants to deposit half of the amount i.e.. 45000/- and the balance amount would be deposited subsequently. In this regard the appellant deposited Rs. 45000/- on 3.3.2010, which shows that the legal representatives of Bahal Singh were



doing theft of electricity. Counsel for the respondent has raised facts in his written arguments stating that there was no truth in the appeal of the appellant the same was baseless and false. The arguments of Sh. Paramjit Singh counsel for the appellant is also not valid that checking of his meter/connection was not done in his presence and even the report was not prepared in his presence. Whenever any officer is to check, at that time presence of the consumer is not required. At the time the officers check connection/meter of Bahal Singh at that time son of Bahal Singh Sh. Jaswant Singh was present. But he refused to sign on report prepared by the checking officers. On the basis of written arguments raised by Counsel for the respondent and keeping in view application filed by the appellant for deposition of the amount of penalty, the appeal is dismissed for want of truth. Counsel for the respondent is instructed to recover the balance account of penalty/bill from Sh. Paramjit Singh s/o Sh. Bahal Singh R/o Rayya as per rules of the Electricity Act and to deposit the same in the treasury. The file be deposited in the record room.”

3. Aggrieved thereof, the petitioner has approached this Court.
4. Learned counsel for the petitioner contends that no final order of assessment under Section 126 of the Electricity Act, 2003 has been passed by the respondents and as such, they are required to take a decision



thereupon. He also contends that the respondents have stated in their written statement that the petitioner did not submit any objection against the provisional assessment, which is factually incorrect in as much as in the reply filed to the appeal under Section 127 of the Electricity Act, 2003 (Annexure P-9), the respondents have specifically acknowledged the receipt of the objections dated 12.02.2010 with them. He contends that the wrong assertion on facts has been made by the respondents in the preliminary objections filed before this Court.

5. Learned counsel for the respondents contends that the petitioner admitted his liability by voluntarily depositing 50% of the assessed amount with a request to restore the electricity connection. He also contends that as per the inspection conducted on petitioner's premises the upper side of the meter was found broken and the seals on the body of the meter were also tampered. Thus, indicating theft of electricity.

6. I have heard the learned counsel appearing on behalf of the respective parties and have gone through the documents available on record.

7. The averments as contained in the written statement submitted by the respondents are extracted here-in-after below for the facility of reference:-

“2. That the present petition is not maintainable for the reason that the respondents did issue a notice for the provisional order of assessment vide memo 13 dated 08.02.2010 and a demand of Rs.91,340/- was raised. The petitioner did not submit any objection against the said



demand, rather he voluntarily deposited 50% of the assessed amount with a request to restore the electric connection vide his application dated 03.03.2010 and further submitted that the remaining amount would be deposited later. Therefore, because the petitioner had admitted his liability for the payment of the assessed amount, there was no need to issue final assessment order. The action of the respondents is in accordance with the rules and regulations of the Corporation and is liable to be upheld by this Hon'ble Court."

8. On a conjoint reading of the order passed by the Appellate Authority as well as the specific stand taken by the respondents in the reply filed by them (to which no replication has been filed), it transpires that the meter of the petitioner was checked at the M.E. Lab. in the presence of Jaswant Singh son of Beant Singh-representative of the petitioner who also signed the consent letter to the effect that in the event of the meter being checked in his absence, he would have no objection to the same. The M.E. Lab submitted a specific report that not only were the seals of the meter were found tampered but also the body of the meter was found broken from the upper side and it was recommended that the petitioner has committed theft of electricity.

9. Under the said circumstances, if it is a projected case of theft of electricity under Section 135 of the Electricity Act, 2003, the proceedings under Section 126 of the Electricity Act, 2003 would not be valid. The competent authority is required to pass an appropriate order for restoration



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of the electricity connection under Section 135 (1-A) of the Electricity Act, 2003 and also to convey the compounding charges if the consumer intends compounding of the said offence.

10. I do not find that there is any error apparent in the order passed by the Appellate Authority since he has refused to exercise jurisdictions considering that a case of theft of electricity was being put forth and emphasized by the respondent-Punjab State Power Corporation Ltd and that he is not the competent authority to adjudicate the demand in such an eventuality. Besides, the appeal in question was also technically against provisional order of assessment and final order of assessment was yet to be passed. Remanding the case to the Sub-Divisional Magistrate, Baba Bakala Sahib, Appellate Authority, would only be a wastage of judicial time with no real outcome.

11. The matter is accordingly remanded to the assessing authority to take appropriate steps in accordance with the applicable statutory provisions so as to eradicate the confusion that has occasioned as a result of the Punjab State Power Corporation Ltd. invoking wrong provisions for initiating proceedings against the petitioner.

12. The petitioner is directed to appear before the Assessing Authority on 27.09.2024 for further proceedings as per law.

13. The present petition is accordingly **disposed of**.

(VINOD S. BHARDWAJ)
JUDGE

08.08.2024
Mangal Singh

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