



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

204

CWP-9649-2015 (O&M)
Date of decision: 15.05.2024

MANOHARJIT SINGHPetitioner

VERSUS

STATE OF PUNJAB & OTHERSRespondents

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

Present:- Mr. Manu K. Bhandari, Advocate with
Mr. Rohit Kataria, Advocate and
Mr. Manu Gaur, Advocate
for the petitioner.

Ms. Harpriya Khaneka, DAG. Punjab
for respondents No.1 and 4.

Mr. Arav Gupta, Advocate for respondents No.2 and 3.

VINOD S. BHARDWAJ, J. (Oral)

CM-1810-CWP-2019

For the reasons mentioned in the application, the same is
allowed and Annexure A-1 is taken on record.

CWP-9649-2015

Challenge in the present writ petition is to the demand
notice dated 03.11.2011 (Annexure P-4) issued by the respondent-
distribution licensee under Section 135 of the Electricity Act, 2003 for
committing theft of electricity and a further prayer has been made to
direct the respondents to calculate the liability against the petitioner on

**CWP-9649-2015 (O&M)****-2-**

the basis of slowness of meter w.e.f. 22.10.2011 to 03.11.2011.

2. Learned counsel appearing on behalf of the petitioner contends that the petitioner was served with an order of provisional assessment Annexure P-4 on 03.11.2011 vide letter No. 4009 under Section 135 of the Electricity Act, 2003 alongwith the compounding charges. It is submitted that FIR No. 245 dated 06.11.2011 was also registered under Section 135 at Police Station Anti Power theft, PSPCL, Patiala. He submits that on conclusion of an investigation, a cancellation report under Section 173 Cr.P.C. was filed by the Investigating Agency which such cancellation report has already been accepted. It is thus contended that as case of theft of energy does not survive on acceptance of the cancellation report which such acceptance has already attained finality, the order of provisional assessment in exercise of the powers conferred under Section 135 (1A) is thus unsustainable.

3. Counsel for the respondent, however, contends that the cancellation was filed for the reasons that the electricity connection was earlier issued in name of Davinder Singh who had expired on 18.06.2008 and as such, there was an apprehension expressed that the theft, if any, could have been committed by Davinder Singh while inserting pins in the meter. He, however, does not dispute that in the absence of any proceedings under Section 135 of the Electricity Act, 2003, any demand or civil liability under Section 135 (1A) would not be sustainable as the authority under Section 135 of the Electricity Act,



CWP-9649-2015 (O&M) -3-

2003 can be exercised only when there is a pending proceeding under the substantive provision. Further, the recovery of loss, if any, can only be asked for after assessment thereof under the corresponding provisions of the Electricity Act, 2003 and the regulations framed thereunder.

4. In view of the aforesaid, the present writ petition is allowed. The demand notice dated 03.11.2011 under Section 135 of the Electricity, 2003 is accordingly set aside. Liberty, is however, granted to the respondents to take appropriate steps as per law and regulations notified thereunder for demand, if any.

5. The writ petition is accordingly allowed.

6. All the pending miscellaneous application(s), if any, are also disposed of.

(VINOD S. BHARDWAJ)
JUDGE

MAY 15, 2024
Vishal sharma

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