



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

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CWP-22238-2024**Date of decision: 05.09.2024**

RAJNI JALAN

.....Petitioner

VERSUS

PUNJAB STATE POWER CORP. LTD AND OTHERSRespondents

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

Present: - Ms. Khushika Setia, Advocate
for the petitioner.

Mr. Gurnoor Singh Sethi, Advocate and
Ms. Jyotnoor Kaur Sethi, Advocate
for the respondents.

VINOD S. BHARDWAJ, J. (Oral)

Challenge in the present writ petition is to the order/Memo No. 1282 dated 29.02.2024 whereby provisional orders of assessment for unauthorized use of electricity had been served upon the petitioner assessing the provisional charges alongwith other recoverables. A further challenge is made to the final order of assessment to the tune of Rs. 3,60,347, being the total recoverable amount/- conveyed vide Memo No. 1865 dated 28.03.2024, as well as to the dismissal of the subsequent appeal by the appellate authority vide order dated 29.07.2024.

2. Learned Counsel appearing on behalf of the petitioner contends that husband of the petitioner was owner of land # C-A, Industrial Area, Sector-2, Rajpura, Punjab. After his demise, the petitioner being the legal heir inherited the said property. Son of the petitioner rented out the premises to M/s

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MJ Consumer Product on 04.11.2022. It is contended that notwithstanding the above said lease, operations of Ms/ MJ Consumer Product from the premises commenced from 05.01.2024. The petitioner was, however, served with a notice under Section 126 of the Electricity Act, 2003 on 29.02.2024 whereupon detailed objection was submitted by the petitioner on 07.03.2024. Notwithstanding the above said objections, the Assessing Authority dismissed the same and conveyed a final order of assessment.

3. Aggrieved thereof, an appeal was filed by the petitioner before the Appellate Authority under Section 127 of the Electricity Act, 2003. However, the electricity supply to the premises of the petitioner was disconnected in the meanwhile compelling the petitioner to prefer CWP-8959-2024 before this Court. Since the electricity supply was restored later, the above said writ petition was withdrawn. The appeal under Section 127 of the Electricity Act, 2003 was however dismissed by the appellate authority on 29.07.2024, without properly considering and appreciating the arguments advanced by the petitioner.

4. Learned Counsel appearing on behalf of the petitioner has vehemently argued that no fair opportunity of hearing was granted to the petitioner and that her actual consumption was none-the-less much below the total sanctioned load. Thus, there was no occasion for penalizing the petitioner for unauthorized use of electricity and for recovering the charges when her consumption does not exceed the sanctioned load. She has also argued that the petitioner has been the owner of all these premises and a mere usage by the tenant would not be punishable.

5. Counsel appearing on behalf of respondent-PSPCL on the other hand contends that a fair and adequate opportunity of hearing had been

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extended to the petitioner to put-forth her case. It is contended that the premises of the petitioner was inspected by the Senior Executive Engineer, Enforcement-1, Patiala on 28.02.2024 and it was noticed that the petitioner had been giving the electricity supply from her large supply electricity connection to the premises of M/s MJ Consumer Product, which was not authorized by the distribution licensee. The same being an act of unauthorized use of electricity falling under Section 126 of the Electricity Act, hence, a notice for provisional assessment was served upon the petitioner. The objections raised by the petitioner were duly considered. It was not disputed by her that the electricity supply was being extended to the different premises. He contends that the nature of works undertaken by the tenant M/s MJ Consumer Product is soap manufacturing and that supply of electricity through a sub meter from her large supply connection to another tenant is impermissible under the Electricity Act, 2003. Hence, the final order of assessment was passed against the petitioner calling upon her to deposit the assessed amount failing which the electricity supply was to be disconnected. The appeal preferred by the petitioner was also examined and the petitioner was given the opportunity for arguing the matter on 12.03.2024, 19.03.2024, 21.03.2024 as well as on 26.03.2024. The objections dated 07.03.2024 filed vide Diary No. 1405 was also taken into consideration. The rent agreement with the tenant was executed on 04.11.2022 as per which the term of the agreement commenced w.e.f. 01.10.2022. He refers to the following part of the observations recorded by the Appellate Authority:-

“The Senior Executive Engineer /Enforcement-cum-EAMMTS, Punjab State Power Corporation Limited, Patiala has mentioned in his report No. 16/4016 that the work of repair of



generator was going on in the Ahata and supply is given to MU Consumer Products from the above said factor by laying one 4 Core cable, where the work of making soap was going on. As per the instructions of Punjab State Power Corporation Limited, the Senior Executive Engineer/Enforcement-cum- EAMMTS, Punjab State Power Corporation Limited, Patiala has directed to intimate by doing the proceedings under UUE.

2. As per above said checking, under UUE Case, the Additional Superintending Engineer/ Operation Division, Punjab State Power Corporation Limited, Rajpura has issued provisional order of assessment to the appellant vide memo No. 1282 dated 29.02.2024 to deposit the UUE amount of Rs. 273963/-.

3. The appellant has filed objection vide diary No. 1405 dated 07.03.2024 against the Provisional order of assessment. The AEE commercial Sub Division, Rajpura vide memo No. 859 dated 11.03.2024 has intimated the appellant to be appear on 12.03.2024 in the office of Additional Superintending Engineer, Operation Division, P.S.P.C.L., Rajpura. On 12.03.2024 the son of the appellant attended the meeting and since the counsel for the appellant was not available, therefore he made request to adjourn the case and the further opportunity is given for 19.03.2024 and on said date Bhavuk Jalan and his counsel appeared and the appellant has presented the copy of Rent agreement made with MU Consumer Products, as per which, the starting of agreement is mentioned as 01.10.2022 to 30.09.2023. Apart from Bhavuk Jain son of appellant has prestned on E-stamp INPB3955805910448524 dated 13.09.2023, in which the second page was of undertaking given by Shubham Makkar (Authorized representative of MU Consumer Products), as per which the agreement was started from 01.10.2022 but the work was started from 05.01.2024.

The Additional Superintending Engineer, Operation Division, P.S.P.C.L., Rajpura has stated that the undertaking



given at page No. 01 of E-stamp and page No. 2 is attested by different Notaries, which is not seems to be genuine. The appellant was directed to submit the supporting genuine document up to 21.03.2024 and on 21.03.2024, the appellant failed to submit the said document, therefore he was again directed to give said document up to 26.03.2024 but the appellant failed to submit such document.

4. The above said lease agreement was applicable from 01.10.2022, as per which, the Additional Superintending Engineer, Operation Division, P.S.P.C.L., Rajpura has admitted the UUE from 01.10.2022 and issued final order of assessment Rs. 3,60,347/- vide memo No. 1865 dated 28.03.2024.

D) Order/Decision:-

In the above said case, the petition filed by the appellant and the documents/reply filed by the concerned officers of the Punjab State Power Corporation Limited have been examined carefully. As per the record submitted by the concerned officers of Punjab State Power Corporation Limited, the checking officer/Enforcement Team had done the checking of Ahata of appellant on 28.02.2024 vide checking No. 16/4016. The consumer has installed private sub-meter and was supplying the electricity from his LS connection to second tenant MU Consumer Product in separate premises by laying a 4 Core Cable, which is not authorized under Distribution license and a boundary wall is constructed between both firms i.e. MU Consumer Product C6/A, Focal Point, Rajpura and M/s Start Polypacks Industrial, C6/B, Focal Point, Rajpura and the work of making soap is being done in the MU Consumer Product and M/s Guru Engg. Works Tenant of M/s Start Polypacks Industrial is doing the work of generator repair from last many years, due to which, Additional Superintending Engineer, Operation Division, P.S.P.C.L., Rajpura has made the case of UUE.



While considering all the above said facts, it has found that this case is of UUE (unauthorized Use of Electricity) under Section 126 of the Electricity Act, 2003. Therefore the appeal of the appellant is hereby dismissed.”

6. He also refers to Section 126 of the Electricity Act, 2003 as per which if the electricity is being supplied to premises other than the premises for which the electricity connection was released, the same would fall within the definition of Unauthorized Use of Electricity.

7. Faced with the above, counsel for the petitioner contends that she has already deposited 50% of the assessed amount at the time of preferring an appeal before the Appellate Authority under Section 127 of the Electricity Act, 2003 and would be satisfied at this juncture in case she is granted some more time to deposit the balance amount as well.

8. Counsel for the respondent does not have any serious objection to the same.

9. The present writ petition is accordingly disposed of by upholding the order of assessment passed by the respondents and affirmed by the Appellate Authority. The petitioner is, however, granted 08 weeks time to deposit the balance outstanding amount with the respondent-distribution licensee. 50% of the above outstanding amount shall be deposited by the petitioner within a period of 04 weeks of a receipt of certified copy of this order and the balance amount has to be deposited within a period of next four weeks thereafter.

(VINOD S. BHARDWAJ)
JUDGE

SEPTEMBER 05, 2024
Vishal Sharma

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No