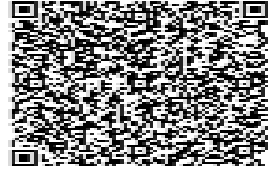


2024:PHHC:122105-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(109)

LPA-2232-2024(O&M)

Decided on: 16.09.2024

Punjab State Power Corporation Ltd. & another

.....Appellant (s)

Versus

Lal Singh & another

....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MRS.JUSTICE MEENAKSHI I. MEHTA**

Present: Mr.Jasdeep Singh Gill, Advocate, for the appellants.

G.S. Sandhawalia, J. (Oral) :

CM-5321-LPA-2024

1. Application for condonation of delay of 167 days in filing the appeal is allowed, in view of the averments made in the application, duly supported by affidavit of clerk of the counsel. Delay of 167 days in filing the appeal is hereby condoned.

2. CM stands disposed of.

CM-5323-LPA-2024

3. Exemption application is allowed, as prayed for.

4. CM stands disposed of.

LPA-2232-2024 (O&M)

5. Consideration in the present appeal is to the judgment dated 22.02.2024, passed by the Learned Single Judge in CWP-24609-2019 titled *Lal Singh Vs. Punjab State Power Corporation Ltd. & others*

whereby the writ petition, filed by the writ petitioner, respondent No.1 herein, was allowed against the present appellant.

6. Learned Single Judge had set aside the letter dated 09.02.2018 (Annexure P-7) whereby the proceedings were sought to be initiated regarding misuse of connection released for sprinkler system, while coming to the conclusion that the scheme for releasing of electricity connection did not provide that the minimum area prescribed has to be under the ownership of the consumer for seeking the benefit of drip/micro sprinkler irrigation system for which he/she is entitled to be considered for release of the tube-well connection under the said scheme. The language of the clause was rather held to be a cultivating possession. Resultantly, as noticed, the son of the petitioner, had sworn an affidavit and had also transferred the land in favour of the writ petitioner and further vested the ownership and title over the said land in his favour and a mutation had also been sanctioned. Therefore, the Learned Single Judge came to the conclusion that the requisite area of the land for which the electricity connection was required had been duly mentioned and the action of the present appellants was held to be open misreading of the statutory scheme and the disqualification having not been specifically incorporated, the said condition could not be read into the circular and what the requirement was of established lawful cultivating possession. Therefore, finding no error in the documents submitted, the letter dated 09.02.2018 (Annexure P-7) was set aside and direction was issued to restore the electricity connection of the writ petitioner within 30 days.

7. Counsel for the appellant has tried to convince us that the ownership was beyond the family members and relied upon the fact that

plea taken in the written statement was that the land was jointly owned by Lal Singh and Balveer Singh and the drip irrigation system installed in the land of Malkeet Singh son of Lal Singh. It is, thus, submitted that the arrangement was beyond the immediate family.

8. We are not in agreement with the said argument, now sought to be raised. The appellants cannot go beyond what was communicated, which was the ground before the Learned Single Judge vide communication dated 09.02.2018 (Annexure P-7). A perusal of the same would go on to show that the objection raised was that the land was not in the ownership of the writ petitioner but was in the name of the sons and therefore, action was proposed to be taken. It is settled principle that by filing a written statement, the additional grounds cannot be taken, as has been held in **Mohinder Singh Gill & another Vs. The Chief Election Commissioner, New Delhi & others, (1978) 1 SCC 405**. The appellants cannot improve upon the order which has been passed by filing the written statement.

9. Even in the reply, the appellants have relied upon the provisions which talk about proof of ownership or occupancy of the premises and the copy of the sale deed or lease deed or rent deed and in the case of agricultural connections, copy of khasra, girdawari, jamabandi or fard of the land, which can be shown regarding the said ownership. The scheme being a beneficial piece of legislation, it has been extended to the persons who are not in ownership of the land but occupation by way of lease/rent deed is also apparently covered by the scheme itself.

10. In such circumstances, the findings which have been recorded by the Learned Single Judge does not suffer from any infirmity or

irregularity which would warrant interference. Resultantly, finding no merit in the present appeal, the same is hereby dismissed. All pending application(s) also stand disposed of.

(G.S. SANDHAWALIA)
JUDGE

16.09.2024
Sailesh

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No