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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 5788/2022 CM APPL. 17298/2022

SUDHIR SINGH

.....Petitioner

Through: Mr. Kshitiz Mahipal, Ms. Khairun
Nisa, Advs.

versus

B.S.E.S. YAMUNA POWER LIMITED

.....Respondent

Through: Mr. Manish Srivastava, Mr. Santosh
Ramdurg and Mr. Moksh Arora,
Advs.

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+ W.P.(C) 5811/2022

SUDHIR SINGH

.....Petitioner

Through: Mr. Kshitiz Mahipal, Ms. Khairun
Nisa, Advs.

versus

B.S.E.S. YAMUNA POWER LIMITED

.....Respondent

Through: Mr. Manish Srivastava, Mr. Santosh
Ramdurg and Mr. Moksh Arora,
Advs.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINdra KUMAR KAURAV

ORDER

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08.07.2024

1. Both the petitions are concerning common electricity meter, therefore, they are being decided by this common order. The petitioners are also common.



2. The petitioner is essentially aggrieved by the order dated 23.02.2022 and also issuance of Dishonest Abstraction of Electricity ["DAE"] bill with due date of 10.03.2022.
3. The learned counsel appearing for the petitioner submits that there is a gross violation of the applicable Delhi Electricity Regulatory Commission (Supply Code and Performance Standards) Regulations, 2017 and therefore, except to approach the writ Court there is no other alternative remedy available as per law for ventilation of his grievances.
4. The learned counsel appearing for the respondent vehemently opposed the submissions. While pointing out various paragraphs from the counter affidavit, he submits that the applicable rules and regulations were fully complied with. He, however, raised the objection on the maintainability of the writ petition and urged that on account of various disputed facts being sought to be adjudicated, the instant petition may not be entertained.
5. The learned counsel while placing reliance on a decision rendered by this Court in W.P.(C) No. 9215/2007 submits that the petitioner should approach the competent Civil Court against the impugned actions.
6. I have considered the submissions made by learned counsel appearing for the parties and perused the record.
7. At the outset, a bare perusal of the counter affidavit would indicate that there is a dispute with respect to the manner in which the petitioner was extracting the electricity. As a natural corollary, the same would require leading of evidence, which is to be examined by the competent Court. For the sake of convenience, the relevant extracts of the said counter affidavit are reproduced herein:-



“h) That the analysis of the downloaded electronic billing data revealed that the meter is downloaded with inconsistent and erratic consumption (-1, 8040, 0, 0, 0, 0, 879.6) from 10.02.2021 to 22.08.2021 and the said data was found not in consonance with the Maximum Demand Indicator (MDI) recorded by the meter. Further, the MDI found continuously hanged to 0.00 KW from 15.05.2021 to 22.08.2021 and the reading was also found to be hanged from 15.05.2021 to 22.08.2021 as per SAP reading chart.

i) That the average consumption pattern as per computer module worked out to be 06.58% which was less than the prescribed limit of Delhi Electricity Regulatory Commission (DERC), and consumption recorded prior to meter replacement was inconsistent and the readings was not in consonance with the corresponding MDI recorded, which corroborated with the findings of the lab report.

j) That based on the inspection, analytical meter data and the third-party testing lab report, it was evidently established that the petitioner has indulged in the Dishonest Abstraction of Energy, and therefore the Respondent issued show cause notices dated 24.11.2021 and 03.02.2022 to the Petitioner and the Registered Consumer to attend personal hearing on 10.12.2021 and 15.02.2022 respectively, but the Petitioner did not appear for the personal hearing and neither submitted any reply or objection on both the occasions. The copy of the said show cause notices dated 10.12.2021 and 15.02.2022 are marked and annexed herewith as Annexure R-2 (Colly).

k) Since, neither the Petitioner nor the registered user came forward to attend the personal hearings and disputed the aforesaid observations and reports, the Respondent, based on the above said inspection report dated 23.08.2021 and laboratory report dated 01.10.2021, a case of DAE was established and the Respondent passed a detailed speaking order dated 23.02.2022 has already been attached as Annexure P-1 with the present writ petition.”

8. At this juncture, it is imperative to place reliance on the decision of this Court in W.P.(C) No. 9215/2007 passed on 01.07.2024, wherein, while deciding a similar controversy revolving around the disputes pertaining to the theft of electricity, the Court, while dismissing such petition, granted liberty to agitate such questions before the competent Civil Court. The



relevant observations of the said decision are reproduced herein as under:-

“11. However, the present is not the case where any of the exigencies as mentioned in the aforementioned paragraphs are met. More importantly, this is not the case wherein, any fundamental right of the petitioner was violated. Moreover, the petitioner has all the rights to approach the Civil Court. Having considered the nature of the grievance raised in the writ petition, it is found that the alleged violations of Rules and Regulations, if any can also be gone into by the concerned Court. Essentially the issue whether the petitioner was involved in the alleged theft of electricity or not perhaps may not be amenable to adjudication by this court in exercise of the extraordinary powers conferred under Article 226 of the Constitution.

12. Therefore, in view of the observations made hereinabove, the petitioners are granted liberty to approach the Civil Court or avail any other remedy, available as per law, for ventilation of his/her grievances.”

9. In view of the aforesaid, while reserving the similar liberty as was granted in W.P.(C) No. 9215/2007 to approach the competent Civil Court or avail any other alternate remedy, available as per law, the instant petition stands disposed of.

PURUSHAINDRA KUMAR KAURAV, J

JULY 8, 2024/NG