

**LPA-2400-2017 (O&M)****-1-****207 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****LPA-2400-2017 (O&M)
Date of decision: 27.11.2025****NARESH KUMAR SANGHI****...APPELLANT****VERSUS****DAKSHIN HARYANA BIJLI
VITRAN NIGAM AND ORS.****...RESPONDENTS****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Munish Gupta, Advocate
for the appellant.

Mr. Deepak Sabharwal, Advocate
for the respondent-DHBVN.

HARSIMRAN SINGH SETHI, J. (ORAL)

1. By way of this appeal filed under Clause 10 of the Letters Patent Act, the appellant challenges the order dated 06.12.2017 passed by the learned Single Judge of this Court in CWP No. 19651 of 2016 titled as '*Naresh Kumar Sanghi Versus Dakshin Haryana Bijli Vitran Nigam and others*, whereby the same was dismissed on the ground that, petitioners in CWP had failed to come to M&T Lab, even after third notice for appearance.

2. Learned counsel for the appellant submits that the writ petition imposing the liability upon the appellant was challenged before the learned Single Judge by filing a writ petition CWP No.19651 of 2016 on the ground that before imposing the liability, he was not given any due notice to be associated when electricity meter was to be checked whether it is a case of theft or not. He further submits that the learned Single Judge has relied upon the notices Annexures R-2

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to R-4 to hold that notices were given but the appellant did not appear and therefore, no grievance can be raised in this regard whereas, a perusal of the notices Annexures R-2 to R-4 will show that notices depict a date of appearance which is prior to the date of issuance of such notices and it is only in the last notice, one date time was given which was totally insufficient. Hence, the mandatory provision of giving prior notice has not been complied with. Hence, it cannot be said that due opportunity to defend was given before assessing the liability.

3. Learned counsel for the appellant further submits that no adequate opportunity has been given to be present at the lab when the meter was checked to find out whether it is a case of suspected theft of electricity or not. Hence, fastening the liability by treating it is a case of theft without provisional assessment under Section 126 of Electricity Act, 2003, prejudice has been caused to the petitioner which fact has been ignored by the learned Single Judge.

3. Learned counsel for the respondent-Dakshin Haryana Bijli Vitran Nigam (DHBVN) submits that at the time when the meter was checked in the premises, the same was checked in the presence of one Zile Singh who is Duty Authorize Personnel of the appellant and he has signed checking report dated 13.06.2016 (Annexure P-1) but with regard to checking of the meter whether the same shows the signs of theft, no one appeared on behalf of the appellant despite notices. Though, it is conceded that in two notices given, there is a typographical error of the date required to be present, keeping in view the date of issuance of such notice but qua the third notice, no one appeared despite receiving the notice though the time granted was one day only. He further submits that no one had appeared on behalf of the appellant, two Gazetted Officers of the department were

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find out whether it is a case of theft or not and ultimately sent in the laboratory, it was found that it is a case of theft under Section 135 of Electricity Act, 2003 and therefore, the order of final assessment was passed which is appended as Annexure P-3.

4. We have heard learned counsel for the parties and have gone through the record with their assistance.

5. Once it is a conceded fact that as per the procedure to be adopted under Section 8 of the Sales Mannual, the person in whose name the meter has been allotted, is required to be present in the laboratory when the meter is opened to find out whether it is a case of theft or not, concededly the appellant has suffered prejudice as the notices which were given to him are of a date which has already elapsed prior to the date of issuances of the notices. Though, it might be typographical error but the prejudice has been suffered by the appellant.

6. Keeping in view the totality, it is directed that the meter in question be rechecked again in the presence of the appellant to find out whether it is a case of theft or not. In case, it is found that it is a case of theft, the due action be taken in accordance with the notices already served as Annexure P-3. As the appellant has already deposited 60% of the amount assessed, the appellant will deposit the remaining 40% amount as when subject to availing any remedy available to him.

7. The present petition stands disposed of in above stated terms.

[HARSIMRAN SINGH SETHI]
JUDGE

[VIKAS SURI]
JUDGE

27.11.2025

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No