IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(102) **CWP-28797-2024**

Date of decision:- 29.10.2025

M/s Dashmesh Rice Mills **...Petitioner**

Versus

Punjab State Power Corporation Limited and others **...Respondents**

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Adhiraj Bhandari, Advocate, with
Mr. Aksshay Sharma, Advocate, for the petitioner.

Ms. Shazia K. Singh, Advocate, for the respondents.

…

***SUVIR SEHGAL, J.* (Oral)**

1. This petition has been filed *inter alia* for issuance of a writ in the nature of certiorari for quashing final order of assessment dated 03.05.2023, Annexure P-5, issued under Section 126 of the Electricity Act, 2003 (for short "the Act"), as also order dated 14.06.2024, Annexure P-6, whereby an appeal filed by petitioner, has been dismissed under Section 127 of the Act. Petitioner has also sought quashing of letter dated 09.07.2024, Annexure P-7, whereby it has been called upon to deposit the balance assessed amount.

2. Relevant facts for the disposal of the writ petition are that petitioner is a partnership firm and is running a rice sheller. Petitioner has an electricity connection under MS category, with sanctioned load of 91.95 KW, and contract demand of 100 KVA. Notices dated 23.01.2023 and 22.02.2023, Annexures P-1 and P-2, respectively, were issued to the petitioner by the Punjab State

Power Corporation Limited (PSPCL) intimating that petitioner is drawing excess load, which should either be removed or regularized within 15 days, otherwise action will be taken as per the rules and guidelines. A joint checking of petitioner's premises was conducted on 27.03.2023, and on the basis of a report, Annexure P-3, petitioner was issued a provisional order of assessment for unauthorized use of electricity under Section 126 of the Act, on 29.03.2023, Annexure P-4. Petitioner submitted objections and by impugned order, Annexure P-5, objections were rejected, and final order was passed assessing charges of Rs.3,42,672/-, which the petitioner was called to deposit within 30 days. Petitioner filed a statutory appeal, which was rejected by the appellate authority vide impugned order, Annexure P-6.

3. Counsel for the petitioner has contended that respondents have failed to adhere to the mandatory procedure prescribed under Section 126 of the Act. He has *inter alia* contended that petitioner was neither provided with an effective opportunity of hearing, nor objections submitted by him were dealt with by the respondents while passing the final order of assessment, Annexure P-5. Counsel emphasizes that a statutory appeal filed by the petitioner, upon deposit of 50% of the demanded amount, was rejected without considering the arguments raised by the petitioner.

4. Per contra, counsel for the respondents has made a reference to the written statement filed on behalf of the respondents to urge that as petitioner had exceeded the sanctioned contract demand, he was liable to pay surcharge at the rate of Rs.750 KVA per month on excess demand. She has made a reference to Regulation 36.1.3 of Punjab State Electricity Regulatory

Commission (Electricity Supply Code and Related Matters) Regulations, 2014, to support her stand. She states that respondents had issued two prior notices to the petitioner before initiating proceedings under Section 126 of the Act, and after considering the objections raised by the petitioner to the provisional order, final order of assessment, Annexure P-5, was passed.

5. I have heard counsel for the parties.

6. In order to test the argument raised by counsel for the petitioner, it is essential to notice the final order of assessment, Annexure P-5. The relevant extract of the order is reproduced hereunder:-

> *"Kindly refer to this office memo No. 590 dated 29/03/2023 vide which a notice of provisional order of assessment was sent to you.*
>
> *2. You were given opportunity to file objection and or were afforded reasonable opportunity to personal hearing.*
>
> *3, After considering the objection and/or submission made during hearing given to you on 03/02/2023 (date) at Gharachon (place), the assessing officer has reached to the conclusion that unauthorized use of electricity has taken place.*
>
> *4. Therefore, you are requested to deposit the finally assessed charges of Rs. 3,42,672 within thirty days (as per Reg. 36.2.4 of Supply Code) of the service of this notice in office of AE/AEE/Distribution Sub-division, Gharachon. Annexure-I.*
>
> *5. It may be intimated that if you are not satisfied by this final order made as per the provision of Reg.36 of Supply Code-2014 and Section 126 of E.A. 2003, you may prefer an appeal within 30 days of this order to the Appellate authority notified by the Govt. of Punjab i.e............... (Indicate here the appellate authority notified such as DC, ADC, SDM etc.) by deposing one half of the finally assessed amount in cash or through bank draft with PSPCL and documentary evidence of the same be enclosed with the appeal. The appeal shall be filed on the prescribed form along with fee of 0.5% of the assessed amount subject to minimum of Rs. 100/-.*
>
> *Assistant Engineer*
> *PSPCL(Assessing officer)*
> *Sub divisional Gharachon (Designation)"*

7. A bare perusal of the above reproduced order shows that a provisional order of assessment was issued to the petitioner on 29.03.2023, Annexure P-4. Petitioner filed objections and was afforded a hearing on "03.02.2023". Opportunity of hearing given to the petitioner prior to issuance of the provisional show cause notice cannot be called an effective hearing. Sub section (3) of section 126 of the Act clearly casts an obligation upon the assessing authority to pass a final order after affording a reasonable opportunity of hearing to the aggrieved person. This is a mandatory requirement. Hearing provided to the petitioner prior to the issuance of the provisional assessment order is no hearing in the eyes of law. Moreover, objections have been rejected by the assessing authority vide the above reproduced order without even noticing the issues raised by the petitioner. It seems that appellate authority has not been even bothered to peruse the objections and has simply passed the final order of assessment with a closed mind. This is not the mandate of sub section (3) of section 126 of the Act. The least that is expected of the assessing authority is to notice the objections raised by the consumer, deal with them and then pass an appropriate order. It is evident that impugned final assessment is order sans reasons and it cannot be sustained. Appellate authority has also failed to notice that the assessing officer has proceeded in breach of the mandatory provision of the Act, and the order passed by the appellate authority deserves to be set aside on this sole ground.

8. For the reasons recorded above, impugned orders, Annexures P-5 and P-6, are quashed. Matter is remitted to the assessing authority to pass a fresh order of assessment after considering the objections raised by the petitioner.

Liberty is granted to the petitioner to raise any supplementary objections, in case, it is so advised. As the petitioner has already deposited 50% of the assessed amount, refund/adjustment of the deposited amount would depend upon the outcome of the proceedings under Sections 126 and 127 of the Act.

9. Petition is disposed of.

(SUVIR SEHGAL)
JUDGE

29.10.2025
Pardeep

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes