

(2025) 09 P&H CK 0903
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 2465 Of 2024

Dakshin Haryana Bijli Vitran Nigam

APPELLANT

Vs

M/S Metro Education And Welfare Pvt Ltd And Another

RESPONDENT

Date of Decision : 24-09-2025

Acts Referred:

Constitution Of India, 1950 — Article 226, 227
Electricity Act, 2003 — Section 126, 127, 127(1), 135

Citation : (2025) 09 P&H CK 0903

Hon'ble Judges : Suvir Sehgal, J

Bench : Single Bench

Advocate : Madhur Singh

Final Decision : Disposed Of

Judgement

Suvir Sehgal, J

1. Instant petition has been filed under Article 226/227 of the Constitution of India, INTER ALIA, for issuance of a writ in the nature of certiorari for quashing the order dated 25.09.2023, Annexure P-9, passed by Appellate Authority-respondent No.2 whereby appeal filed by consumer-respondent No.1, against provisional order of assessment dated 02.06.2023, Annexure P-2, has been accepted and assessed amount has been reduced.

2. Counsel for the petitioner submits that premises of respondent No.1 was checked on 02.06.2023 in the presence of the General Manager, M/s M3M (Metro Education) and it was found that the AP Supply, which was meant for tubewell connection was being used for construction purpose. A report, Annexure P-1, was prepared at the spot which was not signed by the General Manager and order dated 02.06.2023, Annexure P-2 was issued under Section 126 of the Electricity Act, 2003 provisionally assessing the charges for un- No.1 filed objections which were considered and by speaking order dated 07.06.2023, Annexure P-4, they were rejected. Respondent No.1 was also served with a notice under Section 135

of the Electricity Act, 2003, for indulging in theft of energy. Counsel submits that petitioner deposited the entire assessed amount and preferred an appeal against the provisional order, Annexure P-2, before the Appellate Authority, which has been accepted by impugned order, Annexure P-9. Counsel contends that appeal under Section 127 of the Electricity Act, 2003 is not maintainable against a provisional order of assessment. He has placed reliance upon a judgment of Co-ordinate Bench of this Court in Dakshin Haryana Bijli Vitran Nigam Vs. M/s Vipul Motors Pvt. Limited and Another, Law Finder Doc ID #987269. Counsel for the petitioner further submits that order of assessment dated 12.06.2023, Annexure P-5, under Section 135 of Electricity Act, 2003 has been served upon the respondent No.1 and he has received it as is evident from his signature thereon.

3. Despite service, no response has been filed by respondent No.1 and there is no assistance rendered on his behalf.

4. After hearing counsel for the petitioner, this Court finds substance in the argument raised by him. A Co-ordinate Bench of this Court in Dakshin Haryana Bijli Vitran Nigam's case (supra) has observed as under:-

"Though it may be sound to be technical but the fact remains that Section 127 of the Act can only be invoked for filing of appeal against the final assessment order. The language of Section 127(1) strictly provides that if a person is aggrieved by final order then he can challenge the same within 30 days of the said order but in the present case, the respondent No.1 did not ask the petitioner for the final assessment order and perhaps, as stated, under the threat of disconnection of electricity, deposited the amount claimed under the provisional assessment order and filed the appeal against the provisional assessment order.

There is nothing on record in writing to show that the petitioner has threatened the respondent No.1 with the order of disconnection of the electricity on account of non-payment of amount claimed by them. Therefore, the Court cannot consider of this argument raised on behalf of respondent No.1, who had filed the appeal against the provisional assessment order, which was otherwise not maintainable and as such, the Appellate Authority had no jurisdiction."

5. This Court is of the view that question of jurisdiction goes to the root of the matter, Appellate Authority can entertain an appeal under Section 127, ibid against final assessment order only and appeal against provisional order of assessment is not maintainable.

6. In view thereof, impugned order, Annexure P-9 is set aside. Writ petition is disposed of with liberty to respondent No.1 to assail the final order of assessment, if so advised, in accordance with law.