
(2008) 12 P&H CK 0156
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 20542 of 2008

Kamal Kumar

APPELLANT

Vs

P.S.E.B.

RESPONDENT

Date of Decision : 18-12-2008

Acts Referred:

Citation : (2008) 12 P&H CK 0156

Hon'ble Judges : Hemant Gupta, J;Augustine George Masih, J

Bench : Division Bench

Advocate : Pankaj Katia, for the Appellant;

Final Decision : Dismissed

Judgement

Augustine George Masih, J.—The present writ petition has been filed by the petitioner praying for quashing of provisional assessment order dated 16.04.2007 (Annexure P-2), final assessment order dated 27.04.2007 (Annexure P-3) and the order dated 26.08.2008 (Annexure P-6) passed by the learned Sub-Divisional Magistrate, Bathinda (exercising the powers of the appellate authority), whereby the petitioner has been ordered to deposit a sum of Rs. 1,74,191/- for unauthorized use of electricity.

2. It is the contention of the counsel for the petitioner that no opportunity whatsoever was granted to the petitioner before passing the provisional assessment order dated 16.04.2007 (Annexure P-2) and the final order dated 27.04.2007 (Annexure P-3). It is further his contention that even the appellate authority has failed to take note of this and has proceeded to decide the appeal on untenable grounds.

3. We have gone through the impugned orders with the assistance of the counsel for the petitioner and are of the opinion that the prayer of the petitioner cannot be accepted. A perusal of the impugned order would show that the house of the petitioner was under construction when on 13.04.2007 at about 4.40 P.M. the site was inspected by the Electrical Engineer Works, Bathinda. The team

consisted of Sr. Executive Engineer/AEE Enforcement II, Punjab State Electricity Board, Bathinda, who was assisted by an AEE and a Junior Engineer as well as a Security Personnel. During the investigation of the site direct kundi (wire from the main line) was found and on assessment of the load, the same was found to be 8.109 Kilowatt. Videography has been taken of the above said site and the same was kept with the Area Junior Engineer to be used as evidence against the petitioner. Mason Balbir Singh, who was present at the site, was also informed of the checking, who had signed the said report. It was further observed in the said report that this was a clear case of electricity theft, copy of this inspection report is appended as Annexure P-9 with the writ petition. This report clearly depicts that theft of electricity was being done at the behest of the petitioner as the construction of the house was on where various motors and cutters inducing water motor, lamps, fans and grinder were being used.

4. It is the contention of the petitioner that he had applied for a domestic connection for his residential premises vide application dated 20.04.2007. This contention of the petitioner itself shows that the petitioner took action of applying for a connection only when he was caught red handed on 13.04.2007, along with the proof of videography that electricity was being consumed by him directly from the main line without obtaining the electricity connection or installing the electricity meter as required to consume electricity and when the order of provisional assessment was passed on 16.04.2007. This amounts to acceptance of the fact that the electricity was being consumed by the petitioner without having a valid connection. The contention raised by the petitioner that he was not heard at the time of passing of the order dated 16.04.2007 vide which the provisional assessment of Rs. 1,74,191/- has been ordered, cannot be accepted as on 13.04.2007, the mason, who was working at the site of the petitioner and who has appended his signatures on the inspection report, was informed. In any case, this was only a provisional assessment and thereafter, the final assessment order dated 27.04.2007 was passed.

5. The appeal preferred by the petitioner before the Sub-Divisional Magistrate, Bathinda also shows that the petitioner was consuming the electricity without meter at the time of checking of the site by way of kundi connection, which is a clear case of theft of electricity. The factual aspect has not been disputed by the petitioner in the appeal. What has been prayed for is that the time and charges be converted to the domestic charges. This contention has been rejected by the appellate authority on the ground that the petitioner had not taken temporary connection and was consuming electricity directly from the main line. Had the petitioner taken a temporary connection, the claim and the assertion of the petitioner could have been considered and accepted but when it is a clear case of theft, no exception can be made thereto. In this view of the matter, no fault can be found in the order passed by the Sub-Divisional Magistrate, Bathinda/Appellate Authority dated 26.08.2008.

6. The menace of kundi connections as it is generally known i.e. drawing

electricity from the main line by putting wires without any authority or permission and without any meter, is quite prevalent and is being put to use by people without any fear. The honest consumers of electricity have to suffer for no fault of theirs due to low voltage, causing harm to electrical and electronic devices and appliances, frequent tripping and high electricity charges due to increased transmission losses because of such thefts. People like the petitioner misuse the leniency shown by the electricity officials and go to the extent of stealing electricity. This tendency needs to be curbed with a firm hand to discourage such like activities and tendencies gaining ground in the society. Court cannot be a party to illegal activities of people like the petitioner, rather the departmental officials deserve a word of appreciation and encouragement for taking steps to weed out prevalent illegal activities and tendencies of such like elements of the society. Strict action needs to be taken and no leniency deserves to be shown in such cases.

7. In the present case, there is overwhelming evidence to prove that the petitioner had stolen electricity and has committed an offence of thefts. That being so, the court cannot sympathise with such elements. This petition, therefore, deserves to be dismissed.

Ordered accordingly.