

# HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD

**C.P. No.D-133 of 2012**

[ WAPDA Through its Chairman vs. Secretary Irrigation & Power and Others]

**BEFORE:**

**JUSTICE ADNAN-UL-KARIM MEMON**  
**JUSTICE RIAZAT ALI SAHAR**

M/s. Muhammad Arshad S. Pathan & Safdar Hussain Leghari, Advocate for Petitioners

Nemo for the respondents.

Mr. Rafique Ahmed Dahri, Assistant A.G.

Date of hearing & decision: 01.12.2025

## **ORDER**

**ADNAN-UL-KARIM MEMON J.-** The petitioners, through this Constitutional Petition, have prayed as follows:-

- “a. that the orders passed by respondents No.1 & 2 dated 28-11-2005 and order dated 25-04-2011 may kindly be set aside, being passed beyond jurisdiction, authority, and without cause as the decision was already passed by the Honourable President of Pakistan, being the appellate authority; hence the orders of respondents No.1 & 2 are null, void, and ab initio.
- b. The order of respondent No.2 may kindly be suspended, and the respondent No.3 may kindly be directed to pay installments as ordered by the President of Pakistan vide order dated 23-08-2003.”

2. The Petitioner challenged the orders of Respondents 1 and 2/ Electric Inspector and HESCO authorities regarding electricity billing and load extension for Respondent No.3 (M/s. Chippa Rice Mill, formerly Rehman Agricultural Manufacturing Company).

3. Learned counsel for the Petitioners submitted that Respondent No.3 applied for change of name and extension of load from 55 KW to 85 KW, which was sanctioned. Payments of Rs. 86,750/- and Rs. 1,52,874/- were made for change of name and extension of load, respectively. The licensed electrical contractor verified the installation, and Respondent No.2 approved energization. He argued that Respondent No.3 alleged discriminatory treatment and claimed that the change of name and extension of load were not reflected in records, resulting in incorrect billing. The original complaint to Wafaqi Mohtasib was dismissed, but an appeal to the President of Pakistan was allowed with direction to the Petitioners to recover arrears in 30 installments. He submitted that the dispute concerned a billing omission as the installed CT of 200/5 required a multiplying factor of 2, but the bills were issued using a factor of 1. Technical checks confirmed that the meters and CT were accurate, and the difference in billing was admitted and partially paid by Respondent No.3 through installments. The Petitioners counsel contends that the Electric Inspector acted beyond his jurisdiction under Section 26(6) of the Electricity Act, 1910, which limits his authority to verifying meter correctness. He added that no

evidence was recorded, technical reports were ignored, and due process was not followed. He emphasized that the decision was delayed by over two years and did not consider the payments made by Respondent No.3, which were in compliance with the President's order. The Petitioners counsel argue that the impugned orders are legally and factually unsustainable, based on conjecture rather than evidence, and contrary to the principles of natural justice, Section 26(6) and Section 72 of the Contract Act. He lastly submitted that the dispute was civil in nature, and the Petitioner is entitled to recover the amounts. The Petitioners counsel request that the orders of Respondents 1 and 2 be set aside and the Petition be allowed.

4. It appears from the record that notice was issued to all the respondents including respondent No.3 vide order dated 7.11.2017. Lastly a notice was issued to respondent No.3 and the bailiff report dated 7.10.2024 suggest that the factory of respondent No.3 had been closed long ago as such notice could not be served upon them; however, learned A.A.G. has supported the order dated 28.11.2005 passed by the Electric Inspector, Government of Sindh Hyderabad and prayed for dismissal of the Petition as the factual controversy has been resolved by the Electric Inspector in compliance with the order dated 22.11.2023 passed by this Court in CP No. D- 258 of 2003. He also supported the application filed by respondent No.3 before the Electric Inspector; however, Decision has been made in his favour and Appeal preferred by the petitioner was also dismissed. Prima facie the case of respondent No.3 has been covered from the arguments of learned A.A.G.; therefore, this court is left with no option but to hear the parties present in court.

5. Upon consideration of record, and report of Electric Inspector, and relevant provisions of the Electricity Act, 1910, it is noted that the dispute raised by Respondent No.3 pertains to an alleged omission in billing due to the application of an incorrect multiplying factor, and not to defective meters or theft of electricity. The Petitioners have demonstrated that the meters and CTs were installed and checked by the Technical Committee in presence of Respondent No.3's representative. The C.T of 200/5 required a multiplying factor of 2, but was mistakenly billed at factor 1. Subsequent verification confirmed that the meters and CT were within limits, and the difference in billing was duly communicated to Respondent No.3. It appears that Respondent No.3 accepted the calculated difference and voluntarily paid Rs. 9,07,952/- in installments in compliance with the order of the President of Pakistan. The Electric Inspector / Respondent No.2 exceeded his jurisdiction under Section 26(6) of the Electricity Act, 1910, as the meters were neither defective nor incorrect, and no proper evidence or technical analysis was considered. The proceedings were delayed, arbitrary, and contrary to principles of natural justice. The impugned orders of Respondents 1 and 2 are therefore based on conjecture, not supported by facts, technical reports, or law, and are unsustainable. Respondent No.3 is not entitled to any refund or relief.

6. Accordingly, the petition is allowed. The orders of Respondents 1 & 2 dated 28.11.2005 and subsequent dismissal of the appeal are hereby set aside. Respondent No.3 shall not be entitled to any refund or adjustment of amounts already paid, which were

properly due under the electricity billing in accordance with the sanctioned load and multiplying factor.

7. The petition stands disposed of in the aforesaid terms.

**JUDGE**

**JUDGE**

Karar Hussain/PS\*