

Order Sheet

IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. D – 4846 of 2023

| | |
|------|-------------------------------|
| Date | Order with Signature of Judge |
|------|-------------------------------|

Before :

Mr. Justice Nadeem Akhtar

Mr. Justice Mohammad Abdur Rahman

Petitioner : Muhammad Rafiq,
through Syed Salim Ahmed Advocate.

Respondent No.1 : Federation of Pakistan
through Ms. Mehreen Ibrahim, DAG.

Respondent No.2 : NEPRA, called absent.

Respondent No.3 : Province of Sindh
through Mr. Naeem Akhtar Talpur, AAG.

Respondent No.4 : M/S K-Electric Limited
through Mr. Malik Khushal Khan, Advocate.

Date of hearing : 17.11.2023.

ORDER

NADEEM AKHTAR, J. – It is the case of the petitioner that a team of the respondent / K-Electric visited his premises without notice to him to check / inspect the electricity meter installed at his premises, whereafter FIR No.268/2023 under Section 462-K PPC was lodged against him by K-Electric wherein ad-interim pre-arrest bail was granted to him by the trial Court. In paragraph 18 of the petition, the petitioner has stated that the complaint filed by him before NEPRA against K-Electric is still pending. He has alleged that K-Electric is in the process of issuing an excessive and unjustified electricity bill to him. In this background, the present petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, has been filed by him praying that issuance of a detection bill to him by K-Electric without due process of law be declared as illegal ; the FIR lodged against him by K-Electric and the proceedings initiated against him in pursuance thereof be quashed ; and, K-Electric be restrained from disconnecting his electricity connection.

2. In Colony Textile Mills Ltd. Multan through Factory Manager V/S Chief Executive, Multan Electricity Power Company Ltd. (MEPCO), Multan and 2 others (2004 SCMR 1679), the Hon'ble Supreme Court was pleased to hold that if the dispute between the licensee, who in the present case is K-Electric, and the consumer relates to any defect in the meter, maximum demand indicator or other measuring apparatus i.e.

the same are correct or not, the matter shall necessarily be decided by the Electric Inspector on an application moved either by the licensee or the consumer ; Section 26(6) of the Electricity Act, 1910, is confined to the cases in which due to any technical fault or defect in the meter is not in order and is not registering energy correctly ; and, dishonest obstruction through illegal method is not adjudicable by Electric Inspector. This principle was followed in the subsequent case of Multan Electric Power Company Ltd. through Chief Executive and another V/S Muhammad Ashiq and others (PLD 2006 Supreme Court 328), and by a Division Bench of this Court in Kaleemullah & others V/S CEO HESCO & others (SBLR 2020 Sindh 365).

3. It is an admitted position that the complaint filed by the petitioner before NEPRA against K-Electric is still pending. Be that as it may, the dispute alleged by the petitioner admittedly pertains to the correctness of the amount claimed from him by K-Electric on account of the energy consumed by him which clearly falls within the category of a defect in the meter, maximum demand indicator or other measuring apparatus, and his case does not fall within the category of dishonest obstruction. Therefore, the petitioner ought to have approached the Electric Inspector for redressal of his alleged grievance, and as he has not availed his remedy before the competent forum in accordance with law, the present petition, on the face of it, is not maintainable. The precious time of this Court consumed in this frivolous petition could have conveniently been utilized in hearing and deciding other legitimate and genuine cases involving serious questions of law and genuine disputes between parties pending adjudication before this Court that are unfortunately thousands in number. Therefore, the petition, which is a clear and blatant abuse of the process this Court, is liable to be dismissed with special costs in view of the recent pronouncements by the Honourable Supreme Court on imposition of costs in frivolous case in Capital Development Authority, through Chairman, CDA, Islamabad V/S Ahmed Murtaza and another (2023 SCMR 61) and the unreported order dated 12.01.2023 passed in **C.P. No.3127/2020 (Qazi Naveed ul Islam V/S District Judge Gujrat etc.)**. We are refraining ourselves from imposing costs upon the petitioner, however, with a caution to him and his counsel to not commit such mistake in future. The petition and listed applications are dismissed with no order as to costs.

JUDGE

JUDGE

Shahbaz