

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Constitution Petition No. D- 1518 of 2023

(Mst. Majida Parveen Vs. Federation of Pakistan & others)

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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Before;

Adnan-ul-Karim Memon, J;
Muhammad Abdur Rahman, J;

Date of hearing and order: 14-05-2024.

Mr. Abdul Hafeez, advocate for the petitioner.
 Syed Tanveer Abbas Shah, advocate for respondents No. 4 to 7.
 Mr. Muhammad Aslam Jatoi, Assistant A.G, Pakistan.

ORDER.

Adnan-ul-Karim Memon J:- Petitioner Mst Majida Parveen seeks declaration to the effect that the act of respondent-Sukkur Electric Power Company (SEPCO) to disconnect Electricity Meter installed at her official accommodation is illegal, and demanding arrears of electricity bill amounting to Rs.8,00000/- from her, is also illegal. Petitioner also seeks restoration of electricity connection.

2. Per learned Counsel for the petitioner, it has been a consistent practice of respondents-SEPCO that electricity bills were/are being issued in the name of allottee and the allottee was/is paying the same. He has contended that if an allottee is not paying his/her bills regularly, the respondent-Sepco disconnect his/her electricity, whereas, time and again under coercion the petitioner has been asked to pay off certain liabilities of previous allottee of the official accommodation, allotted to her subsequently, which is apathy on the part of respondent-SEPCO, as new meter has been installed, but now she cannot pay the liability of previous allottee as she has been

paying the electricity bills of the premises regularly as such she is not liable to pay arrears of previous allottee under the Electricity Act. He prayed for direction to the respondent-SEPCO to restore the electricity of the premises subject to regular payment to be made by the petitioner which she is already paying, which factum has not been controverted by the other side.

3. Per learned Counsel representing the respondent-SEPCO, notwithstanding this dispute before this Court, the petitioner is not even paying the admitted amount of dues of electricity, consumed by her. He has submitted that when this petition was filed approximately a total amount of Rs. 800000/- was outstanding against the electricity meter installed at her official accommodation, which needs to be paid by the petitioner as she is using the premises and she is liable to pay off the electricity charges including the arrears as discussed supra. So far as the dispute with previous allottee and government of Sindh is concerned the respondent-SEPCO has nothing to do with it, as it is to be resolved by the parties at their own. He prayed for dismissal of this petition.

4. We have heard both the learned Counsel and perused the record. Insofar as the facts are concerned, it appears to be an admitted position that petitioner has been allotted the official accommodation by the Sindh Government and she is paying the electricity bill regularly, except the arrears of Rs.800,000/- which were/are due to be paid either by occupier of the premises or previous allottee, if any, therefore, the question before the Court for disposal of this petition is only to the extent that what measures can be taken by the respondent-SEPCO for recovery of outstanding bill, and whether they are entitled to invoke the provisions of the Electricity Act or can only proceed under the Consumer Service Manual under the NEPRA Act, 1997

5. To resolve such controversy, it would be advantageous to refer to certain provisions of law i.e. Section 24 of the Electricity Act, 1910, Section 45 of the Regulations of Generation, Transmission and Distribution of Electric Power Act 1997 (NEPRA Act), which reads as under:-

Section 24 of the Electricity Act, 1910,

"[24. Discontinuance of supply to consumer neglecting to pay charge: (1) Where any consumer neglects to pay any charge for energy or any sum, other than a charge for energy, assessed against him by a licensee in respect of supply of energy to his premises, the licensee may after giving not less than seven clear days' notice in writing to such consumer and without prejudice to his right recover such charge or other sum by suit or otherwise, cut off the supply and for that purpose cut or disconnect any electric supply-line or other works, being the property of the licensee, through which energy may be supplied to such premises or to any other premises, other than domestic premises, running distinctly in the name of such consumer, and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply and the minimum charges on account of continued reservation of supply during the period of such discontinuance, are paid, but not longer.

(2)

Section 45 of NEPRA Act, 1997

8.1 DISCONNECTION of NEPRA Act, 1997

"A premises is liable to be disconnect if the consumer is a defaulter in making payments of the energy consumption charges bill(s) or if he is using the electric connect for a purpose other than for which it was sanctioned, or if he has extended his load beyond the sanctioned load even after receipt of a notice in this respect from the DISCO. Disconnection Procedure (a) The consumer shall be bound to pay his energy bill within due date specified in the bill or with the late payment surcharge if paid after due date, before the issuance of the next month bill. (b) In case of non-payment of the previous months electricity bill, the DISCO shall serve a clear 7 days' notice to the defaulting consumer to either clear the outstanding dues with the current bill or face disconnection and penal action. (c) Upon non receipt of payment even after the expiry of the notice period, the supply of the defaulting premises shall be disconnected. In such cases the disconnected supply shall not be reconnected or restored by the DISCO until full payment along with late payment surcharge has been made by the consumer. The power supply of the consumers who are allowed by the DISCO to make the payment in installments shall not be disconnected. However, if a consumer further defaults in making payment of installments, the power supply of such a consumer shall be disconnected without any further notice and shall only be restored after receipt of all arrears. (d) The power supply of a defaulting consumer shall not be disconnected who has lodged a complaint/petition against any wrong billing or any dispute relating to the payment of energy bill with DISCO, the Electric Inspectors office/Provincial Office of Inspection or NEPRA (for all such, proper

restraining orders shall be issued). DISCO shall also not disconnect the supply if a restraining order to this effect has been issued from any court of law. (e) If a consumer extends his existing load beyond the sanctioned load he shall be issued a notice along with evidence thereof to apply for extension of load within one month of the receipt of notice. The DISCO shall disconnect the power supply if the consumer fails to avail this opportunity"

6. On a careful examination of the allotment letter dated 7.6.2021 issued to the petitioner (see pg:13) clearly reflects that "Majidah Parveen working as JST, Government Girls Elementary School, Farash Taluka New Sukkur is hereby allotted Quarter No: C-21, ADC Colony Sukkur with effect from date of occupation on payment of usual rent, water, electricity, Sui Gas charges. It is however; in the interest of the allottee to ensure that all bills are regularly paid and nothing accumulates in arrears otherwise he/she may face unpleasant situation and difficulties at the time of vacating official accommodation on transfer / retirement etc as per prevailing rules.

7. Petitioner's allotment letter explicitly shows that she has to pay the electricity bill of the premises with effect from date of occupation, for that petitioner has been paying the dues regularly as stated by the petitioner by referring the various documents attached with the memo of the petition, as such prima-facie, the respondents are precluded to ask for payment of arrears from the petitioner on a separate meter which has been disconnected and which would also be subject to resolution by the concerned electric Inspector or any other competent authority within reasonable time and after hearing the parties; however they may initiate recovery proceedings either from the office of Commissioner/Chairman allotment Committee Sukkur Division or from the previous allottee through any mode of recovery under the law.

8. In view of the above undisputed position, it is our considered opinion that the purported determination made by respondent-SEPCO in respect of the petitioner's connection and making her liable to pay the arrears of the electricity charges consumed by the

previous allottee of the official accommodation, was/is not in accordance with law which needs to be set at naught by the respondent-SEPCO and/or electric Inspector, if jurisdiction exists by approaching; therefore, they were/are bound to restore the electricity connection of the petitioners' premises subject to payment of consumption of electricity dues by the petitioner regularly. So far as the arrears is concerned, the parties to avail the remedy as per law; as discussed in the preceding paragraph.

9. For the forgoing reasons, this petition is disposed of in the above terms.

Judge

Judge

Nasim/P.A