

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 23464 of 2022****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK Sd/-**

Approved for Reporting	Yes	No
		No

MADHYA GUJARAT VIJ COMPANY LIMITED

Versus

PANOLI INTERMEDIATES (INDIA) PVT. LTD. & ANR.

Appearance:

MR DIPAK R DAVE(1232) for the Petitioner(s) No. 1

MR ASHISH JHA(5591) for the Respondent(s) No. 1

MS NIRALI SARDA AGP for the Respondent(s) No. 2

CORAM: HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK**Date : 17/03/2026****JUDGMENT**

1. **Rule** returnable forthwith. Mr. Ashish Jha, learned counsel waives service of notice of rule on behalf of respondent No.1 and Ms. Nirali Sarda, learned AGP waives service of notice of rule on behalf of respondent No.2.

2. Present petition is filed by the petitioner under Articles 14, 19(1)(g), 226 and 227 of Constitution of India r/w the provisions of the Electricity Act, 2003 challenging the impugned order dated 7.9.2022 passed by respondent

No.2 in Appeal No.2153 of 2022 under Section 127 of the Electricity Act whereby respondent No.2-Chief Electrical Inspector, Appellate Authority has quashed and set aside the supplementary bill issued by the petitioner for unauthorized use of the electricity.

3. The facts giving rise to present petition are that respondent No.1 was having an HT electricity connection bearing Consumer No.13076 with a contracted load of 1500 KVA. The installation of respondent No.1 was inspected by the representatives of the petitioner on 26.04.2018. During the inspection, it was found that respondent No.1 was utilizing electricity supply in adjacent Plot Nos.156A and 156B, which are owned by respondent No.1. Such extension and use of electricity was unauthorized and carried out without any prior intimation or permission from the petitioner.

3.1 In view of the above facts, a provisional assessment under Section 126 of the Electricity Act, 2003 was issued on 03.05.2018. After granting an opportunity of hearing to respondent No.1 and considering its reply, the assessment was finalized on 05.06.2018 and a bill amounting to Rs.22,70,458.89 came to be issued to respondent No.1.

3.2 Being aggrieved by the said final assessment bill, respondent No.1 preferred an appeal before respondent

No.2 under Section 127 of the Electricity Act, 2003. The petitioner appeared in the said proceedings and filed its reply opposing the appeal.

3.3 The appeal was heard by respondent No.2. However, during the course of hearing, respondent No.1 neither relied upon nor brought to the notice of the petitioner any order passed by this Hon'ble Court in Special Civil Application No.6748 of 2010. The said order was neither pressed into service nor referred to in the pleadings or oral submissions made before respondent No.2.

3.4 It was only after the impugned order came to be received that the petitioner came to know that respondent No.2 had relied upon the aforesaid decision and, on that basis, set aside the assessment bill. Thus, the petitioner was deprived of an opportunity to deal with or distinguish the said judgment, and the same was considered behind the back of the petitioner.

3.5 The reliance placed on the order passed in Special Civil Application No.6748 of 2010 is wholly misplaced. The said order is contrary to the law laid down by the Division Bench of this Hon'ble Court in ***Paschim Gujarat Vij Company Ltd. vs. Paras Ship Breakers, reported in 2010 (3) GLR 1917.***

3.6 Against the said order passed in Special Civil

Application No.6748 of 2010, a Letters Patent Appeal being LPA No.135 of 2019 was preferred, which came to be admitted and the operation of the impugned order was stayed. The said interim protection continued, and subsequently, the concerned consumer paid the entire assessed amount. In view thereof, the said Letters Patent Appeal came to be disposed of in Lok Adalat.

3.7 In these circumstances, the order passed in Special Civil Application No.6748 of 2010 had ceased to have any binding effect and could not have been relied upon. Had the said order been brought to the notice of the petitioner during the appellate proceedings, the petitioner would have pointed out these crucial facts, including the stay granted in the Letters Patent Appeal and the subsequent settlement. However, without affording any such opportunity, respondent No.2 has erroneously relied upon the said order and set aside the assessment.

4. Being aggrieved by and dissatisfied with the impugned order dated 07.09.2022 passed by respondent No.2 in Appeal No.2153 of 2022, the petitioner has preferred the present petition.

5. Heard Mr. Dave, learned counsel for the petitioner, Mr. Ashish Jha, learned counsel for respondent No.1 and Ms. Nirali Sarda, learned AGP for respondent No.2.

6. Mr. Dave, learned counsel for the petitioner has submitted that since it is an admitted fact that the respondent was consumer of the petitioner company then by using an extension they have extended the power supply to its adjacent plot and thereby they have committed an offence and committed breach of provision of Regulation 7.51 of the Gujarat Electricity Regulatory Commission. Mr. Dave, learned Counsel for the petitioner has submitted that without considering the decision of this Court passed in the matter of ***Paschim Gujarat Vij Company Ltd. (supra)*** the respondent authority has passed the impugned order.

6.1 Mr. Dave, learned counsel for the petitioner has also submitted that respondent No.2 without hearing the petitioner on the aspect of order passed in Special Civil Application No. 6748 of 2010, *suo motu* take cognizance of the said order and the bill has been set aside. He has further submitted that the said order would no longer hold the field in view of order passed in Letters Patent Appeal No.135 of 2019 and despite that the said order has been relied upon by the respondent No.2 and the bill has been set aside.

6.2 Mr. Dave, learned counsel for the petitioner has also submitted that the impugned order came to be passed *de hors* the provisions of law, provisions of the supply code and evidence on record and therefore, the same deserves

to be quashed and set aside.

6.3 Mr. Dave, learned counsel for the petitioner has submitted that the impugned order is illegal, arbitrary, unjust, improper and bad in law and therefore, the same deserves to be quashed and set aside.

7. As against that , Mr. Jha, learned counsel for respondent No.1 relied upon the *affidavit-in-reply* filed on behalf of respondent No.1 and submitted that the respondent No.1-consumer is using the electricity supply in adjacent plot and there is no extension as alleged by the petitioner and being aggrieved and dissatisfied with that and by producing relevant documents the respondent has preferred the Appeal before the Appellate Authority under Section 127 of the Electricity Act and after considering the facts of the case the Appellate Authority has passed the impugned order which is just and proper and in consonance with the settled legal principle and thus, the petition is devoid of any merits and the same deserves to be dismissed.

7.1 Mr. Jha, learned counsel for the respondent No.1 has further submitted that the allegations made against the present respondent No.1 that the said respondent connected the load to the adjacent plot but it is used in the same premises and therefore, there is no allegation that it was extended and it was used by the adjacent plot

and therefore, the impugned bill which is issued under Section 126 of the Electricity Act is not tenable in the eye of law and therefore, the Appellate Authority has after appreciating the said contention and after considering the facts of the case has made relevant observation in paragraph No.5 which is in consonance with the settled legal principle and therefore, there is no interference is required to be called for in present petition and there is no illegality committed by the Appellate Authority in passing the impugned order.

7.2 Mr. Jha, learned counsel for respondent No.1, has submitted that though it is an admitted position that the respondent was a consumer of the petitioner company, the allegation regarding unauthorized extension of power supply to the adjacent plots is misconceived and not established in accordance with law. It is submitted that there is no breach of Regulation 7.51 of the Gujarat Electricity Regulatory Commission, as alleged by the petitioner.

7.3 Mr. Jha, learned counsel for respondent No.1 has also submitted that the Appellate Authority has after taking into account all the relevant aspect and after evaluating the evidence placed on record, passed impugned order which is in consonance with the provisions of law and therefore, this Court may not entertain present petition.

7.4 Learned counsel for respondent No.1 has further submitted that the impugned order has been passed in accordance with law, after due consideration of the provisions of the Supply Code and the evidence on record, and therefore, it does not suffer from any illegality, arbitrariness or perversity.

8. I have gone through the relevant documents and materials placed on record. I have also gone through the record of the petition and impugned order passed by the Appellate Authority.

9. It appears that the against the order passed in Special Civil Application No.6748 of 2010, a Letters Patent Appeal being LPA No.135 of 2019 was preferred, which came to be admitted and the operation of the impugned order was stayed and the said interim protection continued, and subsequently, the concerned consumer paid the entire assessed amount and the said Letters Patent Appeal came to be disposed of in Lok Adalat..

10. In the decision of the Division Bench of this Court relied upon by learned counsel for the petitioner in case of ***Paschim Gujarat Vij Company Ltd (supra)***, the Division Bench of this Court held as under:-

"On this basis, we are of the view that this is a clear case of unauthorized use of electricity covered

under Section 126 of the Act. We may recall that the erstwhile consumers namely Khodiyar Rolling Mills and Paras Ship Breakers who had factories situated in plot no. 2/B and 4 respectively had defaulted in paying their electricity bills. Their electricity connections were therefore, disconnected. In ordinary circumstances, by virtue of agreement between the parties, particularly, if those consumers had sold their plots to some other entities through private negotiations, the Electricity Company would have resisted granting any new electric connection on such premise without the past dues being paid up in toto either by the previous owner or by the new purchaser. If we were to accept the contention of the consumer that all that the consumer has done is an innocuous extension of electricity connection in a neighboring plot, use of which is being enjoyed by the same consumer for which the consumer also pays the full electricity charges, we would be negating and totally bypassing the right of the Electricity Company to seek full recovery of its past dues of electricity before granting new electrical connection on the same premises.

11. After considering the relevant facts and provision, the Division Bench of this Court, disposed of the petition and observed in paragraph No.14 as under:

"We may recall that in Special Civil Application No. 16707/2007, the consumer has challenged order dated 19.2.2007 passed by the Electrical Inspector. Same order to the extent it is adverse to the Company has been challenged in Special Civil Application No.6665/2008. We find that the Electrical Inspector, having accepted the case of unauthorized use of electricity by the consumer, interfered with the disputed bill on other grounds which were not tenable. The Electrical Inspector relied on the meter installed by the consumer on its furnace to hold that such consumption should be excluded from consideration of unauthorized consumption.

We find that the approach of the Electrical

Inspector was wholly incorrect. It is undisputed that the meter installed on the furnace was purchased by the consumer and was not supplied by the Company. Reading recorded by such a meter cannot form the basis for segregating the consumption of electricity. The Company in its petition has taken following ground in this respect :

“(e) The Learned Appellate Authority has failed to appreciate that only the energy meter (TVM) installed by the petitioner is considered to be standard apparatus to measure energy because this apparatus is checked from time to time in the premises of the consumers by the officials of the petitioner. No other meter present in the premises of the consumer is taken in consideration except meter installed by the petitioner because the meter installed other than the petitioner are purchased and installed by the consumer themselves for getting various benefits like electricity duty exemption, D.G. Set, Office Lighting, recording, factory lighting recording, etc. The reading of furnace meter considered by the learned Appellate Authority is totally misleading since the said furnace meter is not tested or sealed by the petitioner. The respondent no.1 had failed to produce any sealing certificate in respect of the said furnace meter.”

No reply has been filed refuting the averments. Even otherwise factual aspects are not in dispute. We uphold the said objection, conclude that interference by the Electrical Inspector in this case was uncalled for. The order is therefore, quashed.”

12. Considering the facts of the case and in view of Section 126 of the Electricity Act, the Division Bench of this Court came to the conclusion that the order passed by the Electrical Inspector to the extent is against the

provision of law and requires to be quashed and set aside. The said Section 126 of the Electricity Act reads as under:-

"Section 126: (Assessment): --- (1) If on an inspection of any place or premises or after inspection of the equipments, gadgets, machines, devices found connected or used, or after inspection of records maintained by any person, the assessing officer comes to the conclusion that such person is indulging in unauthorized use of electricity, he shall provisionally assess to the best of his judgement the electricity charges payable by such person or by any other person benefited by such use.

(2) The order of provisional assessment shall be served upon the person in occupation or possession or in charge of the place or premises in such manner as may be prescribed.

[(3) The person, on whom an order has been served under sub- section (2) shall be entitled to file objections, if any, against the provisional assessment before the assessing officer, who shall, after affording a reasonable opportunity of hearing to such person, pass a final order of assessment within thirty days from the date of service of such order of provisional assessment of the electricity charges payable by such person.]

(4) Any person served with the order of provisional assessment, may, accept such assessment and deposit the assessed amount with the licensee within seven days of service of such provisional assessment order upon him:

*2 [***]*

[(5) If the assessing officer reaches to the conclusion that unauthorised use of electricity has taken place, the assessment shall be made for the entire period during which such unauthorized use of electricity has taken place and if, however, the period during which such

unauthorised use of electricity has taken place cannot be ascertained, such period shall be limited to a period of twelve months immediately preceding the date of inspection.]

(6) The assessment under this section shall be made at a rate equal to [twice] the tariff rates applicable for the relevant category of services specified in sub-section (5).

Explanation.- For the purposes of this section,-

(a) “assessing officer” means an officer of a State Government or Board or licensee, as the case may be, designated as such by the State Government;

(b) “unauthorised use of electricity” means the usage of electricity -

- (i) by any artificial means; or*
- (ii) by a means not authorised by the concerned person or authority or licensee; or*
- (iii) through a tampered meter; or*
- [(iv) for the purpose other than for which the usage of electricity was authorised; or*
- (v) for the premises or areas other than those for which the supply of electricity was authorized.”*

13. It is crystal clear that the respondent No.1 has misused the power connection originally granted in its favour by extending the supply to an adjacent plot, which is an admitted fact. However, without considering this fact and the ratio laid down by the Division Bench of this Court in the case of ***Paschim Gujarat Vij Company Ltd. (supra)***, the Electrical Inspector has passed the impugned order, which, in my view, does not deserve to be sustained and is required to be quashed and set aside.

14. For the foregoing reasons, the petition is hereby allowed. The impugned order dated 7.9.2022 passed by respondent No.2 in Appeal No.2153 of 2022 under Section 127 of the Electricity Act is hereby quashed and set aside. Rule is made absolute.

Sd/-
(HEMANT M. PRACHCHHAK,J)

SURESH SOLANKI

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: SURESHKUMAR MOTIBHAI SOLANKI(HC00208), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 24/03/2026 17:26:56