

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 11186 of 2025

Decided on: 11.07.2025

M/s D.S. Stone Crusher

... Petitioner

Versus

Himachal Pradesh State Electricity Board and
another

... Respondents

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge.

Whether approved for reporting?¹

For the petitioners : Mr. Shriyek Sharda, Advocate.

For the respondents : Ms. Sunita Sharma, Senior Advocate
with Ms. Sugandh Verma, Advocate.

Ajay Mohan Goel, Judge (Oral)

Notice. Ms. Sugandh Verma, learned Counsel, accepts notice on behalf of the respondents. On her instructions, Ms. Sunita Sharma, learned Senior Counsel, has appeared on behalf of the respondents.

2. With the consent of the parties, the writ petition is being disposed of at this stage.

3. By way of this writ petition, the petitioner has, *inter alia*, prayed for the following reliefs:-

"1. Quash and set aside the impugned provisional recovery notice dated 28.04.2025 Annexure P-1 issued by the respondents.

¹ Whether reporters of the local papers may be allowed to see the judgment?

2. Direct the Respondents to conduct any inspection regarding tampering allegations strictly in compliance with the Himachal Pradesh State Electricity Supply Code, 2009, and only in the presence of the Petitioner or his representative ensuring fair opportunity for representation.

3. Restrain the Respondents from recovering the alleged amount of Rs. 11,00,873/- by adjusting or including it in the Petitioner's future bills."

4. Learned Counsel for the petitioner has drawn the attention of the Court to the order dated 28.04.2025, Annexure P-1 and has submitted that the directions that have been issued vide impugned notice are per se bad as the same are in flagrant violation of the provisions of Section 126 of the Electricity Act, 2003 (hereinafter referred as 'the Act'). He submitted that in terms of the statutory provisions of Section 126 of the Act, firstly the Assessing Officer has to pass a Provisional Assessment Order, copy whereof has to be provided to the concerned entity calling upon the entity to submit its response thereto and thereafter, after giving an opportunity of hearing to the party concerned, the Final Assessment Order can be passed. He submitted that this statutory scheme has not been followed in the course of the passing of the impugned order.

5. Learned Senior Counsel for the respondents has

submitted that though the respondents do not admit to the contention raised by learned Senior Counsel for the petitioner, however, in the backdrop of the submission of the learned Senior Counsel for the petitioner, appropriate order be passed but the interest of the respondent-Board be also protected.

6. Taking into consideration the fact that the primary challenge to the impugned order is on the ground that the provisions of Section 126 of the Act have not been religiously followed, this writ petition is disposed of by quashing Annexure P-1, dated 28.04.2025, but with liberty to the respondent-Board to proceed against the petitioner, if so advised, vis-à-vis the cause which led to the issuance of Annexure P-1, but by following the provisions of Section 126 of the Electricity Act, 2003, in letter and spirit. Pending miscellaneous application(s), if any, also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

July 11, 2025
(*narender*)