**Electricity Authority's Actions Ultra Vires: Himachal Pradesh HC Orders Connection and Compensation to Petitioner**

**Case Tittle**: M/S PURE & CURE HEALTHCARE Pvt. Ltd vs. HPSEBL

**Case No**.: CWP No.2585 of 2024

**Dated on**: 04.04.2024

**Coram**: HON’BLE MR. JUSTICE SANDEEP SHARMA

**Facts of the Case:**

The Petitioner in this case, had applied for new electricity connection but their application was rejected by the respondent because a huge amount was due to the previous owner, M/S Ankur Drug Pvt. Ltd, as the petitioner did not pay that amount to the previous owner. After rejection of such application by the electricity authority. The petitioner approached to the Hon’ble High Court of Himachal Pradesh by filling a writ application under Article 226 of the Constitution of India and urged before the hon’ble court for issuing writ of Mandamus for quashing the communication dated on 02.03.2024(Annexure P2) as it was ultra vires and also provide for compensation because respondent had breached the terms of the Himachal Pradesh   Electricity Regulatory   Commission (Distribution   Performance Standards) Regulations, 2010.

**Legal Provisions:**

Article 226 of the Constitution of India: It empowers the High Court to issue writ.

Section 13 of the SARFAESI Act: It states about the enforcement of security interest.

Section 77 of Companies Act, 2013: It provides for the duty to register charges.

Section 78 of Companies Act, 2013: Application for Registration of Charge.

Section 100 of the Transfer of Property Act: Charges

**Contentions of the Appellant:**

M/s Pure & Cure Healthcare Pvt. Ltd., herein the petitioner contended that they shouldn't have to pay the previous owner's outstanding electricity dues because they bought the property in an auction free of any past debts, as confirmed by the Sale Certificate. Further, they claimed that it was unfair and against the law for the electricity board to demand payment of old dues before granting a new electricity connection. Additionally, they sought compensation for the delay caused by the board's refusal to provide the connection.

**Contentions of the Respondents:**

The HPSEBL, herein the respondent contended that according to their regulations, the new owner must either clear the previous owner's outstanding electricity dues of Rs. 20,43,837 with interest or pay an advance cost along with an average bill amount to get a new electricity connection. They maintained that these payments were necessary for providing the new connection, regardless of the property's sale through an auction.

**Court’s Analysis & Judgement:**

The court reviewed the case and determined that M/s Pure & Cure Healthcare Pvt. Ltd., herein the petitioner, bought the property in an auction, which included a Sale Certificate stating the property was free of previous debts. Further, the court found that it was unfair for the electricity board to demand that the new owner pay the former owner's outstanding electricity dues. However, the hon’ble bench decided that the electricity board's condition regarding the requirement of payment of the old dues before granting a new connection was unlawful. Therefore, the court ordered the electricity board to provide the new electricity connection without insisting on the payment of the old dues and also addressed the issue of compensating the company for the delay.

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**Judgement Reviewed By- Shramana Sengupta**