

GAHC010166422018



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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

I.A.(Civil)/1858/2021

M/S. JRC TEA COMPANY
A PARTNERSHIP FIRM DULY REGD. UNDER THE INDIAN PARTNERSHIP ACT
32 HAVING ITS PRINCIPAL PLACE OF BUSINESS AND BOUGHT LEAF TEA
FACTORY AT GERUWABARI- 784176
DIST- BISWANATH CHARIALI
ASSAM
DULY REP. BY ONE OF ITS PARTNERS NAMELY
SRI JAYANTA BORAH
S/O- SRI KHAGEN BORAH
R/O- VILL- KHARASIMALU
PO GERUWABARI
DIST- BISWANATH CHARIALI
ASSAM

VERSUS

ASSAM POWER DISTRIBUTION COMPANY LTD. AND 2 ORS.
A GOVT. OF ASSAM UNDERTAKING DULY INCORPORATED UNDER THE
COMPANIES ACT
1956 HAVING ITS OFFICE AT BIJULEE BHAWAN
PALTAN BAZAR
GHY-1
DULY REP. BY ITS CHAIRMAN-CUM-MANAGING DIRECTOR

2:THE AREA MANAGER/ ASSTT. GENERAL MANAGER/ ASSESSING OFFICER
TEZPUR INDUSTRIAL REVENUE COLLECTION AREA
APDCL
DIST- SONITPUR
ASSAM

3:THE SUB-DIVISIONAL ENGINEER
T AND C SUB DIVISION

APDCL
CAR
BISWANATH CHARIALI
DIST- BISWANATH
ASSAM

Advocate for : MR. S K KEJRIWAL

Advocate for : SC

APDCL appearing for ASSAM POWER DISTRIBUTION COMPANY LTD. AND 2
ORS.

**BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE**

ORDER

Date : 06.12.2024

Heard Mr. S.K. Kejriwal, learned counsel for the applicant. Also heard Mr. K.P. Pathak, learned counsel for the opposite party/respondent.

This is application praying for amendment of the writ petition being WP(C) 5179/2018.

Although the applicant has sought for amendment of the said writ petition challenging the validity of Clause 7.4.(f)(i), 7.4.2(ii) and 7.4.2(iii)(1) of the Assam Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2017, ultimately the learned counsel for the applicant submits that he may be allowed to amend the prayer portion which is extracted herein below:-

“It is, therefore, prayed that Your Lordships may be pleased to admit this petition, call for the records of the case, issue a Rule calling upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other appropriate writ, order or direction of like nature should not be issued declaring Clauses 7.4(f)(i), 7.4.2(ii) and 7.4.2 (iii) (1) of the AERC (Electricity Supply Code) Regulations, 2017 as unconstitutional and ultra vires Section 126 of the Electricity Act, 2003 and Articles 14, 19(1)(g) and 21 of the Constitution of India having been framed in excess of the delegated power conferred upon the Respondent no.4 under

Section 50 of the Electricity Act, 2003 and as to why a writ in the nature of Certiorari and/or any other appropriate Writ, Order or Direction of like nature should not be issued quashing and setting aside the Inspection Report dated 20-03-18 (Annexure-A), Final Assessment Order dated 18-04-18 (Annexure-G), Appellate Order dated 11-07-18 (Annexure-I) and Final Assessment Bill dated 16-07-18 (Annexure-J) as illegal being without jurisdiction and nullity and as to why a Writ in the nature of Mandamus and/or any other appropriate Writ, Order or Direction of like nature should not be issued commanding the Respondents and their agents and officials to recall, rescind, withdraw, cancel and forbear from giving effect to the Appellate Order dated 11-7-18 (Annexure-I) and Final Assessment Bill dated 16-07-18 (Annexure-J) as illegal being without jurisdiction and nullity and as to why a writ in the nature of Mandamus and/or any other appropriate writ, order or Direction of like nature should not be issued commanding the Respondents and their agents and officials to recall, rescind, withdraw, cancel and forbear from giving effect to the Appellate Order dated 11.07.2018 (Annexure-I) and Final Assessment Bill dated 16.07.2018 (Annexure-J) and as to why the respondents shall not be directed to refund the amount of Rs. 13,17,313/- paid by the petitioner vide Annexure- H against provisional assessment bill together with interest as per Section 62(6) of the Act read with Clause 7.4.7 (e) of the Supply Code and as to why the Respondents shall not be directed to forebear from disconnecting power supply to the petitioner and upon such cause or causes that may be shown and after hearing the parties and upon perusal of the records, further be pleased to make the Rule absolute and/or pass such further or other order or orders as Your Lordships may deem fit and proper.”

Mr. K.P. Pathak, learned counsel for the respondents fairly submits that he has no objection for amendment of the prayer portion. However, he may be given an opportunity to file response to the proposed amendment in the prayer portion as the respondent has already filed counter-affidavit in the writ petition.

Having considered the submissions made by the learned counsel for the parties and on perusal of the application, I deem it appropriate to allow this application.

Accordingly, the prayer portion in the writ petition be allowed to be amended as

extracted herein above.

I.A. stands allowed and disposed of.

JUDGE

Comparing Assistant