

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.763 of 2012**

**IN**

**Civil Writ Jurisdiction Case No. 3675 of 2012**

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1. Bihar State Electricity Board Through its Chairman, Vidhyut Bhawan, Bailey Road, Patna
  2. The General Manager-Cum-Chief Engineer, Magadh Area Supply Board, Gaya
  3. The Electrical Superintending Engineer, Electric Circle, Gaya
  4. The Electrical Executive Engineer, Electric Supply Division, Chandauti, Gaya
  5. The Assistant Electrical Engineer, Supply Sub-Division-III, Chand Chaura, Gaya

.... .... Appellant/s

Versus

1. Manoj Singh Son Of Sri Brij Nandan Singh @ Birja Singh Resident Of Durgabari, P.S.- Civil Lines, Town And District- Gaya
2. Smt. Manikraj Devi Wife Of Sri Brij Nandan Singh @ Birja Singh Resident Of Durgabari, P.S.- Civil Lines, Town And District- Gaya

.... .... Respondent/s

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**Appearance :**

For the Appellant/s : Mr. VINAY KIRTI SINGH

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH**

**and**

**HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)**

**Date: 05-02-2015**

The State Electricity Board and its officers who are respondents in the writ petition has filed this appeal against the judgment passed in C.W.J.C. No. 3675 of 2012 being order dated 23.3.2012.

The facts do not appear to be in dispute. A premise was inspected on or about 10.1.2011 and it was found that they were unauthorizedly consuming electricity. The connection had not been authorized. The usage was in the ground floor where purportedly a show room for vehicle was there and on the first floor which was to be used as restaurant. An FIR was lodged. The grievance of the writ petitioner appears to be that he had applied for electric connection that was being

delayed, cables have been laid down, however, before this Court their prayer was to give them electric connection. They were ready to pay and had approached the authorities to pay compounding fee, as envisaged under Section 152 of the Electricity Act 2003 (hereinafter referred to as the Act), they were also ready to pay the civil liability arising out of the theft assessment but sought permission to pay the same in installments.

Learned single Judge found that the writ petitioners had not only applied for electric connection but had taken steps such as providing meter which was to be tested and installed. In fact all formalities were completed except for energizing the line. Under these circumstances, the learned single Judge directed payment of Rs. 2.5 lacs as a subject for connecting electric supply without prejudice to the rights of the parties without any further interference.

Learned counsel for the appellant submits that learned single Judge erred in allowing the same. We may notice two facts that arise. Firstly, the writ petitioner, in the petition, had categorically stated that they were ready to pay the civil liability assessed as a consequence of allegation of theft. They had sought installments for payment thereof. It was categorically stated that they had made applications for compounding of offence as contemplated under Section 152 of the Act but the authorities were not acting on either of them. Mr. Vinay Kirti Singh submits that there can be no compounding unless civil liability is paid.

We have noted this contention only to reject the same. This matter has been settled by a Division Bench in the case of **Mosmat Swaran @ Swaran Manraw vs. The State of Bihar & Anr.** since reported in **2012 (2) PLJR 229** of this Court, wherein the Division Bench has clearly opined that the liabilities under Sections 126, Section 135, Section 152 and Section 154 of the Act are distinct and different, they operate in different fields. Therefore, it cannot be said that the



two are interdependent. One is for compounding the criminal case on payment of the requisite compounding fee which cannot in any circumstances be refused. The criminal case would have to automatically be compounded. Once it is compounded, it amounts to acquittal but acquittal does not amount that civil liability under Section 126 of the Act vanishes as stated above they are independent liabilities. There would be a provisional assessment or final assessment on an appeal and if there is a criminal case that would be settled by the final orders of the Special Judge in terms of Section 154 (5) of the Act but if there is no criminal case that does not mean that the liability under the provisional or the final assessment cannot be raised and/or enforced. Thus it is wrong to say or submit that the two liabilities are interlinked or interconnected.

Learned counsel for the appellant draws attention of this Court to Clause 11.2.3 and Clause 11.2.4 of the Bihar Electricity Supply Code 2007 as amended up today. All we may say is these very regulations confirm our finding that the liability under assessment for theft under Section 126 of the Act is not dependent upon compounding two offences. These two regulations separately deal with the liabilities, they are not interdependent in any manner. Compounding can be accepted notwithstanding civil liability.

On the facts of the case, the writ petitioner having already submitted that it was ready to compound, it was ready to pay the civil liability under Section 126 of the Act, we fail to understand how the appellant could be aggrieved. The question is the propriety of the learned single Judge ordering reconnection on payment of Rs. 2.5 lacs, in the facts may not put proper. The liability as assessed as per assessment under Section 126 of the Act and admitted by the writ petitioner was Rs. 7.34 lakhs and Rs. 1.91 lakhs, total to about Rs. 9.2. lakhs. The act itself provides that for preferring appeal, one has to deposit

minimum 50 per cent of the amount and therefore, to get any interim relief, may be by way of reconnection or connection, at least 50 percent of that amount will be due and payable. That would ofcourse be subject to final assessment is made. To that extent we modify the order of the learned single Judge.

In terms of the aforesaid, this appeal stands disposed of.

**(Navaniti Prasad Singh, J)**

**(Jitendra Mohan Sharma, J)**

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