

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12067 of 2014

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1. Ganesh Kumar Singh son of Late Sita Ram Singh
2. Shailesh Kumar Singh son of Sri Ganesh Kumar Singh Both residents of
Ganesh Nursing Home, Kadam Kuan, P.S. Kadam Kuan, Town and District
- Patna

.... Petitioner/s

Versus

1. The Bihar State Power Holding Corporation through its Managing
Director, Vidyut Bhawan, Bailey Road, Patna
2. South Bihar Power Distribution Co. Ltd. through its Chief Engineer
(Commercial), Vidyut Bhawan, Patna
3. General Manager - cum - Chief Engineer, PESU, Mangles Road, Patna
800 001
4. The Electrical Executive Engineer, Electric Supply Division, Dak
Banglow, Bander Bagicha, Patna - 800 001
5. The Assistant Electrical Engineer, Electric Supply Sub - Division, Kadam
Kuan, Patna - 800 003

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suraj Samdarshi, Adv.

For the Respondent/s : Mr. Anand Kumar Ojha, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 09-04-2015 Heard Mr. Suraj Samdarshi, learned counsel for the
petitioner and learned counsel for the respondents.

The limited prayer made in this writ petition is for a
direction to the respondents to comply with the direction issued by
the appellate authority as contained in the order dated 29.12.2010
passed in Appeal No. 14 of 2010 in exercise of powers vested
under Section 127 of the Electricity Act, 2003.

It is considering the nature of grievance that the counsel for
the respondents was directed to ascertain whether they have taken

recourse to questioning the order of the appellate authority and though the matter has been taken up today but the information is not forthcoming in absence of instructions.

Any proceeding initiated under Section 126 of the 'the Act' for using electricity by unauthorized means finally culminates in the order passed by the appellate authority under Section 127 of 'the Act' and Section 127(4) of 'the Act' attaches finality to the order of the appellate authority. However if such proceeding is also accompanied by a registration of a police case under section 135 of 'the Act' then this appellate order becomes subject to final determination of civil liability by the Special Court under section 154 (5) of 'the Act' which enables the Special Court to determine the civil liability and creates an obligation on the consumer to make good the differential amount, in case the amount so determined is greater than the amount determined by the appellate authority. Sub section 6 of Section 154 in a similar manner vests a right in the consumer for refund of the said amount in case the civil liability so determined by the Special Court falls below the punitive bill amount finally confirmed by the appellate authority under Section 127 of 'the Act'.

In view of the eloquent statutory provisions referred to above, in my opinion, there appears to be no valid grounds for the

respondents not to comply with the order of the appellate authority although a period of almost 5 years is going to lapse.

In the circumstances discussed, the Electrical Executive Engineer, Electrical Supply Division, Dak Banglow, Bander Bagicha, District Patna is directed to ensure compliance of the order dated 29.12.2010 passed in Appeal No. 14 of 2010 by the appellate authority under Section 127 of the Act within 3 months of receipt/production of a copy of this order.

It goes without saying that any such compliance would be subject to the final outcome of the proceedings pending before the Special Court.

The writ petition is allowed.

(Jyoti Saran, J)

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