

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22412 of 2014

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Vikash Kumar. Son of Ramakant Prasad, resident of Pantoka, P.O. & P.S.-
Raxaul, Dist.- East Champaran.

.... Petitioner/s

Versus

1. The Bihar State Power Holding Company Ltd. through its Chairman cum Managing Director, Vidhyut Bhawan, Bailey Road, Patna.
2. The North Bihar Power Distribution Company Ltd. through its Managing Director, Vidhyut Bhawan, Bailey Road, Patna.
3. The Chief Engineer (Commercial), North Bihar Power Distribution Company Ltd., Vidhyut Bhawan, Bailey Road, Patna.
4. The Electrical Executive Engineer, Electric Supply Division, Raxaul, East Champaran, Bihar.
5. The Assistant Electrical Engineer, Electric Supply Sub-Division, Raxaul, East Champaran, Bihar.

.... Respondent/s

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Appearance:

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

For the Respondent/s : Mr. Vinay Kirti Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

5 12-03-2015 Heard the parties.

The petitioner has questioned the letter no. 98 dated 20.2.2014 passed by the Assistant Electrical Engineer-cum-assessing authority whereby the objection filed under Section 126 of the Electricity Act, 2003 has not been considered simply on the ground that it was filed belatedly.

The petitioner has also prayed for a restoration of his energy and this Court vide order passed on 12.2.2015 while directing the petitioner to pay 50 per cent of the punitive bill

issued direction for restoration of energy and which has since been restored.

The only issue that remains for consideration is whether the final order of assessment placed at Annexure-3 can be upheld. Though the order is sought to be justified by Mr. Vinay Kirti Singh on the grounds that since the petitioner had submitted his objection belatedly it cannot be entertained but in my opinion in absence of any period prescribed under Section 126(3) of the Act for filing objection coupled with the fact that admittedly the objection was filed prior to passing of the final order of assessment dated 20.2.2014, it required a disposal in terms of the provisions underlying Section 126(3) of the Act.

Mr. V.K. Singh even while making his submission could not contest the position that no hearing as mandated under the provision was provided to the petitioner.

In the circumstances discussed hereinabove, the final order of assessment dated 20.2.2014 cannot be upheld and is accordingly set aside. The matter is remitted back to the assessing authority-cum-Assistant Electrical Engineer to pass a fresh order in accordance with law after giving an opportunity of hearing to the petitioner as mandated under Section 126(3) of the Act within three months from the date of receipt / production of a copy of this

order. The petitioner shall appear before the assessing authority-cum-Assistant Electrical Engineer, Electric Supply Sub-Division, Raxaul, East Champaran on or before 30.3.2015 and whereafter the respondent Assistant Electrical Engineer would proceed in the matter in the light of the stipulations made hereinabove.

The writ petition is allowed with the direction aforementioned.

(Jyoti Saran, J)

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