

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5916 of 2002

M/S Shree Janki Cold Storage through its Directors Lakhan Lall Sao, son of Late Janki Sao, resident of Meharpur, PO-Ranabigha, District-Nalanda (Biharsharif).

.... Petitioner/s

Versus

1. The Bihar State Electricity Board through its Chairman, Bailey Road, Patna..
2. The Electrical Superintending Engineer, Bihar Sharif, Nalanda, District Supply Circle, Bihar Sharif.
3. The Electrical Executive Engineer, Electric Division, Bihar Sharif, Nalanda
4. The Electrical Assistant (Revenue & Supply) Engineer, Bihar Sharif, Nalanda.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Mani Bhushan Kumar, Adv.

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

Mr. Vijay Kr. Verma, Adv.

Mr. Akhileshwar Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 31-03-2015

In this case, the petitioner is claiming refund of the amount as per the direction of this Court dated 17.05.1996 (Anenxure-1) passed in CWJC No. 3725/1996 and also takes reliance on order dated 13.07.1999 (Annexure-5) passed in CWJC No. 1689/98.

As per the claim of the petitioner, he has taken HT electric connection on contract demand of 100 K.V.A. The Electricity Board served the wrong bill upon him.

The matter was referred to the Electrical Inspector who passed the order in favour of the petitioner.

The Electricity Board challenged the said order before the Advisory Board, passed the order in favour of the Electricity Board which was challenged before this Court in CWJC No. 1689 of 1998 and that has been set aside.



After hearing the parties, this Court recorded, nothing wrong was found in the seal. However, it was reported, C.T. Box not properly separated from the meter. Connection of B phase C.T. found reversed which has been corrected at 4.00 P.M. and on that basis, a supplementary bill for the period 21.5.95 to 25.7.95 amounting to Rs. 4,92,168.90 was served upon the petitioner, declared by this Court to be not permissible in law and quashed the said bill with a direction to raise a fresh bill after taking into consideration three months average of the bill after 25.7.95 for the period 21.5.95 to 25.7.95.

The counsel for the petitioner submits that after the order passed by this Court dated 13.7.1999 in CWJC No. 1689 of 1998, the Electricity Board has not served any fresh bill upon the petitioner, nor has returned the amount of Rs. 4,92,168/- which the petitioner paid as extra amount to the Board.

The Board in paragraph 6 of the counter affidavit has given the two charts, one is related to the amount to be refunded and adjusted there the total amount has been shown Rs. 698,896.81 and another column deals with the amount to be charged from the petitioner on account of energy/FSC and other dues arrived to the amount of Rs. 7,24,519.01.

After subtraction of Rs. 6,98,896.81, the Board has shown, petitioner is to pay Rs. 25,622.20 as energy charge.

The petitioner has disputed the claim of the Board and submitted that the Board has wrongly shown the outstanding dues Rs. 4,61,652.63 which was subject matter of CWJC No. 1689 of 1998 has been set aside.

As per the counsel for the petitioner after order passed by this Court dated 13.7.1999 in CWJC No. 1689 of 1998, no fresh bill has been served upon the petitioner.

The counsel for the petitioner submits that after the order

passed by the Advisory Board, they have filed a certificate proceeding and there they have not mentioned items, mentioned in paragraph 6 of the counter affidavit, nor any amendment was sought in the certificate proceeding, in such view of the matter, they cannot claim the items which are not subject matter of certificate proceeding.

In view of statements made in counter affidavit, this Court cannot decide the disputed question of facts arising in the present case.

As it is a very old matter, conflicting facts are emerging, this Court in the writ jurisdiction cannot adjudicate, it will be appropriate, the petitioner may file a detailed representation with all supporting documents to the Electrical Superintending Engineer, Bihar Sharif (Nalanda), will be obliged to give hearing to the petitioner and take a decision within a period of six months from the date of filing of the representation. If the Superintending Engineer arrives to a conclusion that the petitioner is entitled to the refund of the amount, it goes without saying that he will get the amount along with interest.

With the above observation/direction, this petition is disposed of.

(Shivaji Pandey, J)

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