

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15599 of 2015

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Tuppu Singh @ Mukesh Singh, son of Sri Kailash Singh, resident Village
Dhibar, P.S. Pandarak, District Patna.

.... Petitioner

Versus

1. The State of Bihar through the Chairman, Bihar State Electricity Board,
Bailey Road, Patna.
2. The Executive Engineer, Bihar State Electricity Supply Division, Barh,
Patna.
3. The Superintendent Engineer, Bihar State Electricity Board, Barh Patna.
4. The Assistant Engineer, Bihar State Electricity Board Supply Division
Barh, Patna.
5. The Junior Engineer, Bihar State Electricity Board Rural Area, Barh,
Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Pandey, Advocate
For the Respondent/s : Mr. Vinay Kirti Singh, Advocate
: Mr. Anand Kumar Ojha, Advocate

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**CORAM: HONOURABLE MR. JUSTICE SAMARENDRA
PRATAP SINGH**
ORAL ORDER

2 27-11-2015 Heard learned counsel for the petitioner and Mr.
Ojha, learned counsel appearing for the Power Holding Company.

2. The petitioner's premise was inspected on
13.07.2013. He was caught committing theft of electricity energy
by using unauthorized electric wires, giving rise to Pandarak P.S.
case no. 102 of 2013, dated 13.07.2013 under Sections 135 and
136 of the Electricity Act. The Board assessed a loss of
Rs.87,830/-.

3. The petitioner moved for grant of anticipatory bail
in the police case, which was allowed on the usual condition of

depositing the amount of loss assessed by the Electricity Board on installment basis.

4. In this writ application, the petitioner has limited his prayer for providing him with a provisional assessment, so that he can file his objection under Section 126 A of the Electricity Act. He has denied the charges of theft or unauthorized use of electricity.

5. On the other hand, counsel for the Power Holding Company submits that the petitioner has got anticipatory bail on the undertaking that he will deposit the entire amount and as such he should deposit the entire amount and precluded from challenging the impugned order. He next submits that the petitioner has filed a malicious complaint against the officials of the Power Holding Company, which is contained in Annexure-3, after four days of the inspection in order to lower the morals of the officials of the Power Holding Company.

6. I will address the first issue first. It appears that the petitioner got anticipatory bail on the undertaking that he will deposit the entire amount in installments. In case, if the petitioner fails to deposit the amount, it will be open for the respondent Company to file an application for cancellation of bail of the petitioner before the court granting anticipatory bail, which is



expected to be heard expeditiously. Nonetheless, the issue is whether a consumer could be precluded from challenging the punitive bill raised by the Power Holding Company on the civil side under Section 126 of the Electricity Act. The answer obviously has to be in negative. The petitioner has been provided statutory right to file objection against the provisional assessment under Section 126 of the Electricity Act and the said right cannot be taken merely because he has made an assurance to make payment of the entire amount mentioned in the F.I.R., which itself would be subject to result under Section 154(6) of the Act.

7. In such circumstances, the respondents are directed to issue provisional assessment order to the petitioner within a period of three weeks from the date of receipt of a copy of this order to enable him to file his objections.

8. Now I take up the other issue raised by the learned counsel for the Power Holding Company that the petitioner's wife filed a false complaint in order to cause humiliation to the officials of the Power Holding Company. He submits that no officials conducting raid would do anything, which may offend one's religious sentiments or faith. I would agree that mere allegations would not be a truth established, and as such would not be taken as an aspersion or stigma. If the allegations seem frivolous, it can

be rejected out rightly.

9. With the aforesaid observations, this application stands disposed of.

(Samarendra Pratap Singh, J.)

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