IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15028 of 2010

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Sudhir Kumar Jha, S/O Late Babu Narain Jha, R/O Vill.- Benipur, P.S.- Bahera, Distt.- Darbhanga

.... Petitioner/s

Versus

1. Bihar State Electricity Board through the Chairman, Patna
2. The Chief Engineer, Mithila Electric Supply Area, Darbhanga
3. The Electrical Superintending Engineer, Electric Supply Circle, Darbhanga
4. The Electrical Executive Engineer, Electric Supply Division, Darbhanga
5. The Electrical Assistant Engineer, Benipur Sub-Division, Electric Supply Division, Darbhanga

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Abhinav Srivastava Mr. Arvind Kumar No.2 Mr.Anil Kumar Singh
For the Respondent/s	:	Mr. Vinay Kirti Singh Mr.Akhileshwar Singh

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 07-04-2015 Heard the parties.

The petitioner has filed the present writ petition under Article 226 of the Constitution of India seeking a direction to the respondent Bihar State Electricity Board (now its successor Body) and its functionaries to pay him admitted dues of commission pursuant to the execution of the deed of agreement for rural area franchisee, as contained in Annexure-3 to the writ petition.

It is not in dispute that the Government of India approved a scheme known as “Rajiv Gandhi Grameen Vidyutikaran Yojna” for providing rural electricity infrastructure and household electrification. The franchisee document no.19 has been brought on record as Annexure-1 to the writ petition. It is also not in dispute that under the aforesaid scheme, the petitioner was selected as Franchisee for the Cluster of DTs of Benipur General Feeder emerging out from Benipur Power Sub-Station under Electric Supply Sub-Division Benipur in the district of Darbhanga. It is further not in dispute that the agreement of franchisee was singed by the petitioner and the respondent no.3 on 19th May, 2007, which has been brought on record as Annexure-3. It is also an admitted fact that the aforesaid franchisee agreement was renewed up till 18th May, 2010.

The grievance of the petitioner in the present proceeding is that he has discharged his duties as per the terms of the agreement as contained in Annexure-3 and submitted the bills for commission and incentive in the revised format and against those bills part amount has been paid, but remaining amount is not being paid by the respondents despite repeated representations submitted by the petitioner.

Learned counsel appearing on behalf of the petitioner has submitted that even in the counter affidavit filed on behalf of the respondents it has been admitted that the bills for payment of incentive and commission for a sum of Rs.2,21,349/- to the petitioner was passed by the Accounts Officer, but from that bills also an amount of Rs.1,18,786/- has been arbitrarily deducted on the ground that the excess payment was made to the petitioner for the period from May, 2007 to July, 2008. According to him, if the amount was required to be deducted by the competent authority, then the petitioner ought to have given an opportunity of hearing and only thereafter final decision could have been taken by them. He further pointed out that even admitted amount of Rs.1,02,563/- has not been paid to the petitioner till date.

Learned counsel appearing on behalf of the respondents, though has opposed the prayer made on behalf of the petitioner, but has fairly submitted that he has not received specific instructions that the admitted dues of Rs.1,02,563/- has actually been paid to the petitioner. However, he assures this Court that, if the aforesaid amount has not been paid to the petitioner, then that shall be paid within a period of four weeks from the date of appearance of the petitioner before the respondent no.3 with a certified copy of the present order. So far deduction of alleged excess amount is concerned, it is contended that the petitioner may be granted a liberty to file a representation and, if such a representation is filed within a period of four weeks from today, the same shall be considered in accordance with law, after giving an opportunity of hearing to the petitioner.

In the aforesaid factual matrixes and in view of the fair stand taken by the learned counsel appearing on behalf of the respondents, the present writ petition is disposed of with a direction to the petitioner to appear before the respondent no.3 within a period of four weeks from today with a certified copy of the present order. On his appearance, the respondent no.3 shall be obliged to pay him the admitted dues of Rs.1,02,563/- within a maximum period of four weeks, if not already paid. The petitioner is also granted liberty to file a comprehensive representation with respect to the claim of amount of Rs.1,18,786/-, which was deducted on the ground of alleged excess payment. The respondent no.3 shall be obliged to consider and examine the claim of the petitioner and, thereafter, he shall pass a fresh order within a maximum period of eight weeks. If on consideration of the materials, the claim raised on behalf of the petitioner is found admissible, then such admissible amount shall be paid to the petitioner without any unnecessary further delay by the respondent no.3 or by any other competent authority of the respondent Board (now its successor Body). However, if the claims raised on behalf of the petitioner is found inadmissible, then the respondent no.3 shall pass a reasoned and speaking order within a period of two months from the date of filing of the representation by the petitioner.

The writ petition stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

Arvind/-

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