

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20566 of 2010

=====

The Bihar State Electricity Board through its Secretary, Vidhyut Bhawan,
Bailey Road, Patna.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Energy Deptt., Govt. of Bihar, Patna.
2. The Electrical Inspector Bihar-Cum-Appellate Authority, Surpentine Road, Patna.
3. Satya Naraan Prasad, S/O Late Ruplal Sah, R/O Mohalla-Fatuha Road, Fatuha, Proprietor Of M/S Durga Enterprises, Fatuha, P.S.-Fatuha, Distt.-Patna.
4. Lalita Devi @ Lalti Devi, W/O Late Shyam Sundar Prasad, R/O Mohalla-Main Road, Fatuha, P.S-Fatuha, Distt.-Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Anand Kumar Ojha
For the Respondent nos.1&2: Mr. Rajesh Kumar, AC to AAG-3
For the Respondent nos.3&4: Mr.Mani Bhushan Kumar

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 04-05-2015 Heard the parties.

It is a common case of the parties that Fatuha P.S. Case No.476 of 2009 dated 10.12.2009 registered under Section 379 of the Indian Penal Code as also under Sections 135/138 of the Electricity Act, 2003 was lodged by the Assistant Electrical Engineer of the petitioner Bihar State Electricity Board in which the respondent nos.3 and 4 have been arrayed as accused. In the aforesaid criminal case, the respondent nos.3 and 4 are alleged to have committed theft of electricity and the said criminal case is still pending for final adjudication before the learned Magistrate, Patna City.

It is also an admitted case of the parties that the respondent nos.3 and 4 were subjected to a proceeding under

Section 126 of the Electricity Act, 2003 (in short Act only). After conclusion of the assessment proceeding, the respondent nos.3 and 4 were served punitive bills for alleged unauthorized use of electricity. It is also a common case of the parties that the respondent nos.3 and 4, being aggrieved by the orders passed under Section 126 of the Act, preferred two separate appeals in terms of Section 127 of the Act before the Electrical Inspector, Bihar, Patna (respondent no.2). Both the appeals were heard together and were finally allowed by a common order dated 29.05.2010 (Annexure-1 to the writ petition).

The Bihar State Electricity Board has filed the present writ petition assailing the validity and correctness of the aforesaid order dated 29.05.2010 (Annexure-1).

Learned counsel appearing on behalf of the petitioner submits that the respondent Electrical Inspector, Bihar, Patna-cum-Appellate Authority under the Act, while allowing the aforesaid two appeals filed on behalf of the respondent nos.3 and 4, has made certain observations, which may adversely affect the merit of the criminal case pending against the respondent nos.3 and 4 before the learned court below. He further submits that, if this Court protects the interest of the petitioner only to the extent that the criminal case lodged against the respondent nos.3 and 4 shall be decided on its own merit, then the petitioner may not press this application on merit.

Learned counsel appearing on behalf of the respondents though have opposed the prayer, but have submitted that, in fact, the observations made in the impugned order dated 29.05.2010 was only for the purposes of deciding the validity and correctness of the orders passed under Section 126 of the Act and this

observation shall not in any way prejudice the case of the parties in the criminal proceeding pending against the respondent nos.3 and 4.

In view of the fair stand taken by the learned counsel appearing on behalf of both the sides, the present writ petition is finally disposed of with an observation that any observation/remarks made by the respondent Electrical Inspector, Bihar, Patna (respondent no.2) in the impugned order dated 29.05.2010 (Annexure-1) shall be construed to be an observation/remarks only for the purposes of deciding the validity and correctness of the assessment orders passed under Section 126 of the Act and that shall not in any way prejudice/influence the case of the parties before the learned Magistrate in the pending criminal trial against the respondent nos.3 and 4.

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

(Birendra Prasad Verma, J)

Arvind/-

U			
---	--	--	--