

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.747 of 2014

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Amod Kumar Jaiswal, son of Late Bisundeo Chaudhary, resident of Village- Dighi
At and P.O.- Dighikala, Near Chanakya Colony, Behind Industrial Area, P.S.
Hajipur, District- Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar, through Its Commissioner -cum- Secretary Department of Energy, Govt. of Bihar, Patna.
2. The Additional Collector -cum- Appellate Authority, Hajipur, District- Vaishali.
3. The Chairman, Bihar State Power (Holding) Co. Ltd. Vidyut Bhawan, Bailey Road, Patna.
4. The Head (incharge) Special Task Force, Bihar State Power (Holding) Co. Ltd., Vidyut Bhawan, Bailey Road, Patna.
5. Executive Engineer, Supply Division, Bihar State Power Distribution Co. (North) Hajipur, District- Vaishali.
6. Assistant Engineer -cum- Assessing Officer, Supply Division, Bihar State Power Distribution Co. (North) Hajipur, District- Vaishali.
7. Junior Engineer, Supply Division, Bihar State Power Distribution Co. (North) Hajipur, District- Vaishali.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Alok Ranjan

For the Respondent/s : Mr. Anand Kumar Ojha

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 26-03-2015

Heard Mr. Alok Ranjan, learned counsel appearing
on behalf of the petitioner and Mr. Anand Kumar Ojha, learned
counsel appearing for the respondents.

This is the third attempt by the petitioner before this
Court inasmuch as he has approached this Court at every stage of
the proceedings initiated under section 126 of the Electricity Act,
2003 (hereinafter referred to as 'the Act') culminating in the

appellate order under section 127 of 'the Act'.

The facts of the case briefly stated is that an inspection was carried out in the premises of the petitioner on 8.1.2010 when it was detected that the petitioner was consuming electricity at a load of 23 HP which was beyond the load sanctioned to the petitioner at 8 HP. A copy of the report is placed at Annexure-3 to the writ petition. The petitioner being aggrieved approached this Court at this stage by raising the issue of validity of inspection in CWJC No.9968 of 2010 which was disposed of on 22.7.2010 with a liberty to file his objection in the light of the provisions underlying section 126(3) of 'the Act'. A copy of such order is placed at Annexure-5. Upon filing of objection, the same was disposed of by the Assessing Authority on 10.1.2011 which again was questioned by the petitioner before this Court in CWJC No.5673 of 2011 which was allowed by a Bench of this Court on 5.4.2011 with a finding that the final assessment order was non-speaking. The final assessment order was set aside and the matter was remitted for a fresh consideration and whereafter the second final assessment order has been passed by the Assessing Officer – cum- Assistant Electrical Engineer, Bihar State Power Holding Com. Ltd., Supply Sub-Division, Vaishali at Hajipur on 5.1.2013 which admittedly is a discussed order and a copy of the same is



placed at Annexure-7. The petitioner questioned the final assessment order by filing a statutory appeal under section 127 of 'the Act' and which has been dismissed vide order passed on 25.11.2013 by the Appellate Authority –cum- Additional Collector, Vaishali vide order placed at Annexure-9. The petitioner being aggrieved is again before this Court.

One of the many issues raised by the petitioner herein is that the appellate order is a non-speaking. Learned counsel for the petitioner with reference to the appellate order placed at Annexure-9 submits that it is a non-speaking order and does not discuss the issues raised by the petitioner in his appeal to question the final assessment order. Learned counsel submits that the appellate authority's order should accompany reasons. In support of his contention learned counsel relies upon a judgment of the Supreme Court reported in **AIR 1979 SC 798 (Mahindra and Mahindra Ltd. Vs. Union of India)**, paragraph 24 to submit that an order of an authority performing quasi judicial functions should reflect application of mind.

Mr. Anand Kumar Ojha, learned counsel appearing for the respondents in his attempt to justify the appellate order submits that the finding of the appellate forum as regarding the calculation of penal bill amount would itself be sufficient to uphold

the appellate order. However even while making a justification of the appellate order, he could not persuade this Court into accepting that the appellate order is in the manner required.

The issue raised by Mr. Ranjan, learned counsel appearing for the petitioner stands well settled. Reasons are the backbone of an order passed by a statutory authority discharging quasi judicial functions and the absence thereof renders it autocratic. I am tempted to quote the relevant portion of paragraph 24 of the judgment rendered in the case of **Mahindra and Mahindra Ltd.** (supra):

“24.
It is now settled law that where an authority makes an order in exercise of a quasi judicial function, it must record its reasons in support of the order it makes. Every quasi judicial order must be supported by reasons. That is the minimum requirement of law laid down by a long line of decisions of this Court.”.

That the appellate order neither deals with objection raised by the petitioner nor assigns any reasons to reject the same, it is difficult to uphold the same and the appellate order as contained in Annexure-9 is accordingly set aside. The matter is remitted back to the Appellate Authority –cum- Additional Collector, Vaishali to reconsider the matter in the backdrop of the issues raised by the

petitioner in his appeal and dispose of the same by a speaking order after giving an opportunity of hearing to the petitioner.

The petitioner would appear before the Appellate Authority along with a copy of this order on or before 6.4.2015 and whereafter the Appellate Authority shall proceed to dispose of the matter in the manner stipulated hereinabove.

The writ petition is allowed with the direction aforementioned.

(Jyoti Saran, J)

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