

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22038 of 2014

=====

Tara Chand Gupta, S/o Late Radha Mohan Sah, R/o Village + P.O. - Dighita, P.S. Kochas,
District- Rohtas.

.... Petitioner/s

Versus

1. Bihar State Electricity Board, Patna through its Chairman.
2. Consumer Grievance Redressal Forum, Bihar State Electricity Board, Patna.
3. Chief Engineer, Electric Supply Division, Sasaram, Rohtas.
4. Executive Electrical Engineer, Electric Supply Division, Sasaram, Rohtas.
5. Assistant Electrical Engineer, Electric Supply Subdivision, Kochas, Rohtas.
6. J.E., Electric Supply Sub-Division, Kochas, Rohtas.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Mahesh Prasad No.2
Mr. Rewti Kant Raman

For the Respondent-BSEB : Mr. Anand Kumar Ojha
Mr. Ashok Kumar Karn

For the Respondent-State : Mr. Kuber Pathak, AC to SC-14

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 12-05-2015

Heard Mr. Mahesh Prasad No.2, learned counsel
appearing on behalf of the petitioner, learned counsel for the State
and learned counsel for the respondent-Company.

A very short issue has been raised by the petitioner to
question the exercise initiated by the respondents for levying a
punitive bill on grounds of having load in excess of the sanctioned
load.

The facts of the case lie in a very narrow compass. The
petitioner filed an application for enhancement of load on 7.12.2013
placed at Annexure-3 to the writ petition. Although in the
application the desired enhanced load has not been mentioned by the
petitioner but in my opinion, this may not be fatal to reject any such
application itself for the intent is clear. The fact remains that an

application to this effect was filed by the petitioner on 7.12.2013 and an inspection was carried out by the investigation team of the respondent-Company on 21.12.2013 when they found the machines present in the premises of the petitioner having 81.57 HP. A copy of the inspection report is present at Annexure-4.

While it is disputed by the petitioner that the load was yet to be connected when the inspection was conducted but this Court would not go into such dispute. Suffice it to say that the application was filed for enhancement of load and when inspection team reached they found the machines having load of 81.57 HP. Clause 7.8 of the Bihar Electricity Supply Code, 2007 (hereinafter referred to as 'the Supply Code') mandates the procedure to be followed for enhancement of load and for change in category. Upon filing of any such application for enhancement of load under Clause 7.8(i) the premises is to be inspected by an inspecting team under Clause 7.8(iii) of 'the Supply Code'. Clause 7.8(iv) further provides that a change in category would become effective from the next billing cycle. Clause 7.8(v) is the all important clause and provides that no case of unauthorized use of energy shall be booked by the licensee if detected after the consumer had applied for change of category.

There is no dispute on the fact that an application for enhancement of load was filed by the petitioner on 7.12.2013 and an

inspection had followed thereafter.

An identical issue came up for consideration before this Court in the case of **M/s Shiv Sai Metal Products Pvt. Ltd. Vs. The Bihar State Power Holding Company Ltd.** since reported in **2015 (2) PLJR 222** and this Court after examining the statutory provisions governing such issue has held that where an application for enhancement of load has been filed by the consumer any detection of a higher load subsequent to the filing of an application for enhancement of load/change in category, cannot be a subject matter of a proceedings for unauthorized use of energy. The proceedings so initiated by the respondents alleging unauthorized use of energy was set aside.

The issue raised herein is squarely covered by the judgment referred to above and for the reasons assigned therein, the bill impugned at Annexure-5 cannot be upheld and is accordingly set aside.

The writ petition is allowed. The respondents shall be at liberty to issue a fresh bill in the light of the statutory provisions underlying Clause 7.8(iv) of the Bihar Electricity Supply Code, 2007.

(Jyoti Saran, J)

SKPathak/-

U			
---	--	--	--