

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16531 of 2014

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Krishna Devi, wife of Late Raghunath Jaiswal, resident of Kannulal Road,
Mithapur, P.S. Jakkanpur, District-Patna-800001

.... Petitioner/s

Versus

1. South Bihar Power Distribution Holding Co. Ltd. through its Managing Director, Vidyut Bhawan, Jawahar Lal Nehru Marg (Bailey Road), Patna
2. The Junior Electrical Engineer, Electric Supply Section, Mithapur, P.S. Jakkanpur, District-Patna

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Yugal Kishore, Sr. Advocate
Mr. Virendra Prasad, Advocate

For the Respondent/s : Mr. Vinay Kirti Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

6 20-04-2015 Heard Mr. Yugal Kishore, learned senior counsel

appearing for the petitioner and Mr. Vinay Kirti Singh for the

respondent Holding / Distribution Company.

The limited grievance of the petitioner in the present writ petition is for restoration of electricity which stands disconnected following detection of irregularities in the premises of petitioner by the respondents during course of inspection and which has also led to institution of an FIR. The loss assessed by the inspecting team has been quantified at Rs. 85,792/-.

It is not in dispute that the petitioner following the order passed by the Sessions Judge passed in A.B.P. No. 22987 of 2014 has been depositing the punitive amount in 12 equal monthly installments and according to Mr. Kishore, learned senior counsel



the petitioner has deposited more than 50 per cent of the punitive amount. It has also been contended by the petitioner in the writ petition that the final order of assessment which has been impugned at Annexure-B to the counter affidavit filed on behalf of the respondent company, has been passed ex parte and without opportunity of hearing to the petitioner.

Although it has been argued by Mr. Vinay Kirti Singh appearing for the respondents that the statement is not correct and can be verified from the file relating to the proceedings but a bare perusal of the order of final assessment passed under Section 126(3) of the Electricity Act, 2003 present at Annexure-B does not justify the submissions inasmuch as the date on which the petitioner is stated to have participated in the hearing is blank and which error appears twice in the order meaning thereby, the assessing authority while passing the final assessment order did not even remember the date on which the petitioner is stated to have participated in the hearing.

From the circumstances reflecting from the impugned order, I am not in agreement with the submissions of Mr. Vinay Kirti Singh that the final assessment order was passed after hearing the petitioner and considering the nature of the order placed at Annexure-B, it does not satisfy the requirement of a quasi judicial order having been passed upon hearing the parties.



For the reasons aforementioned, the order dated 28.9.2014 passed by the Assessing Authority-cum-Assistant Electrical Engineer, Electric Supply Sub-Division, Jakkanpur, District-Patna placed at Annexure-B to the counter affidavit cannot be upheld and is set aside. The matter is remitted back to the Assessing Authority for passing a fresh order in accordance with law and following the legal obligations cast upon him under Section 126(3) of the Act after giving a reasonable opportunity of hearing to the petitioner.

The petitioner would appear alongwith a copy of this order before the Assessing Authority on or before 28.04.2015 and when the assessing authority would proceed to fix the date of hearing and dispose of the matter in the light of the stipulation made hereinabove.

Insofar as the relief of re-connection is concerned, since there is no dispute that the petitioner has deposited more than 50 per cent of the punitive amount, his electric line should be restored by the Assistant Electrical Engineer within 48 hours of receipt/production of a copy of this order.

The writ petition is allowed with the direction aforementioned.

(Jyoti Saran, J)

S.Sb/-