

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1824 of 2014

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M/S Prabha Electrocasting Private Limited, having its factory at Industrial Area, Raxaul (East Champaran) through its Director Sri Binod Saraf son of Mohan Lal Sarraf, resident of Shiv Mandir, Nepali Tola 21/109, Church Road, Christian Quarter, P.O. Betiah, P.S. Betiah, Dist. West Champaran

.... Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary Bihar, Patna
2. The Certificate Officer, East Champaran, Motihari
3. The Bihar State Power (Holding) Company Limited, Vidyut Bhawan, Bailey Road, Patna, through its Chairman-cum-Managing Director
4. The North Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna, through its Director
5. The Chief Engineer (Commercial), North Bihar Power Distribution Company Ltd., Vidyut Bhawan, Bailey Road, Patna
6. The General Manager Cum Chief Engineer, Tirhut Area, (North Bihar Power Distribution Company Limited), at Bhagwanpur, Muzaffarpur

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Suraj Samdarshi, Advocate

For the Respondent/s : Mr. Sanjay Pandey, G.P.-21

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 22-01-2015 Mr. Suraj Samdarshi for the petitioner and Mr. Sanjay Kumar Giri for the respondent Distribution Company are in attendance.

A counter affidavit has been filed. Let it be kept on record.

The petitioner is aggrieved by the order dated 5.7.2013 passed by the respondent Chief Engineer (Commercial) whereby the claim of the petitioner under Clause-13 of the High Tension Agreement has been rejected.

The ground raised by Mr. Samdarshi to question the order passed by the Chief Engineer (Commercial) is that it was

passed without any opportunity of hearing to the petitioner in an ex parte manner. He thus submits that although the order reflects that notices were issued to the petitioner but in fact these notices were never received and as a result of which the petitioner could not participate in the proceedings.

Though a counter affidavit has been filed but there is nothing on record to demonstrate the service of notice on the petitioner.

In the circumstances that the order impugned has been passed by the Chief Engineer (Commercial) without service of notice and without opportunity of hearing to the petitioner, the same cannot be upheld and is accordingly set aside. The matter is remitted back to the Chief Engineer (Commercial) to pass a fresh order in accordance with law and after giving opportunity of hearing to the petitioner.

The petitioner shall appear before the Chief Engineer (Commercial) alongwith a copy of this order on or before 2.2.2015 and whereafter the Chief Engineer (Commercial) i.e. respondent no. 5 shall fix the date of hearing and proceed in the matter for disposal of the matter in the light of the stipulations made hereinabove.

The writ petition is allowed with the directions and observations aforementioned.

(Jyoti Saran, J)

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