

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11124 of 2015

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Rajeshwar Prasad Shahi son of Late Charitra Prasad Shahi resident of village - Rajkhaud, P.S. - Aurai, District - Muzaffarpur and at present Kumud Medical Hall, H. 38 doctor's Colony, Kankarbag, Town and District - Patna. **Petitioner**

Versus

1. The Bihar State Power (Holding) Company Limited, Vidyut Bhawan, Bailey Road, Patna through its Chairman-cum-Managing Director.
 2. The South Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna, through its Managing Director.
 3. The Electrical Executive Engineer, Kankarbagh Division, Patna Electric Supply Undertaking (East), Patna.
 4. The Assistant Electrical Engineer, Kankarbagh Division, Patna Electric Supply Undertaking (East), Patna.
 5. Dr. Jamshed Alam son of Late Haji Wakil Ahmad retired Professor, H-38, Doctors Colony, Kankarbagh, Town & District Patna. **Respondents**
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Appearance :

For the Petitioner : Mr. Suraj Samdarshi, Advocate

For the Respondents : Mr. Vinay Kirti Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

2 20-08-2015 Heard learned counsel for the parties.

The matter was heard on the previous date and the same was adjourned for some clarifications.

The petitioner prays for quashing Letter no.248 dated 20.6.2015, passed by the Assistant Electrical Engineer, Kankarbagh Division, by which he has rejected the prayer for grant of temporary connection.

Respondent no.5 is the land lord of premises situated at H 38, Doctors Co-operative Colony, Kankarbagh, Patna. A lease agreement was executed on 30.4.2010 in favour of the petitioner with respect to a small shop admeasuring 110 square feet for running a licensed medical hall in the name and style of

Kumud Medical Hall at the monthly rental of Rs.4300/-. Differences cropped between petitioner and the land lord leading to filing of Title suit no. 746 of 2013 by the latter (respondent no.5) against petitioner. Electric supply of the petitioner was also disconnected on 11.1.2015. A separate meter was got installed by the petitioner for purpose of recording consumption of energy by him in the medical shop.

The petitioner approached the respondent Electrical Executive Engineer vide representation dated 14.1.2015 requesting therein to provide a new meter in his name. The petitioner also filed C.W.J.C.No. 3733 of 2015. This Court while disposing of the writ petition refused to pass any positive direction for grant of permanent connection. However, the petitioner was granted liberty to apply for temporary connection before the respondent company which application would be disposed of on its own merit. The learned court also noticed that the petitioner had approached the Collector in appeal under section 24 of the Bihar Building (Lease, Rent and Eviction) Control Act, 1982 bearing BBC Appeal No.16 of 2014 for restoration of amenities which were withdrawn. The Assistant Electrical Engineer considered and eventually rejected his application for grant of temporary connection. The letter dated 20.6.2015 is in challenge in this case.

The petitioner submits that it is not in dispute that he is an occupant as the land lord has himself filed Eviction suit no.107 of 2013 against him. He next submits that Section 43 of the Electricity Act, 2003 states that the licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply. It is further submitted that Clause 4.13(2A) of the Bihar Electricity Supply Code which requires prior permission of landlord for giving electric connection would not override the provision of section 43 of the Electricity Act, 2003. Learned counsel in support of this submission, has referred to Division bench order of this Court dated 13.8.2012, passed in LPA No.1139 of 2012.

As the writ petition is being disposed of at the admission stage without noticing respondent no.5 and without counter affidavit of the Board, it would only direct that the appropriate authority would consider the case of the petitioner once again in light of order of the Division bench, after giving due hearing to respondent no.5.

(Samarendra Pratap Singh, J)

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