

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.902 of 2015

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Md. Ibrahim, son of Late Heyat Mohammad, resident of Mohalla: Chaudhari Tola,
P. S: Hawai Adda, District: Patna.

.... Petitioner/s

Versus

1. The South Bihar Power Distribution Company Ltd. through its Managing Director, having office at Vidhyut Bhawan. Bailey Road, Patna.
2. The Executive Engineer, Electric Supply Division, Patna.
3. The Assistant Electrical Engineer, Nutan Rajdhani, Patna.
4. Ram Pawan Kumar, son of Sri Ganesh Prasad, resident of Village & P.O: Sarwa, P.S: Barachatti, District- Gaya, presently posted as Junior Engineer, Raj Bhawan, P.S: Sachiwalya, District: Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prabhat Ranjan Singh
Mr. Prabeen Kumar Singh

For the Respondent/s : Mr. Ashok Kumar, AC to Anand Kr. Ojha

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 20-03-2015

Heard Mr. Prabhat Ranjan Singh, learned counsel appearing on behalf of the petitioner and Mr. Ashok Kumar Karn, learned Assisting Counsel to Mr. Anand Kumar Ojha appearing for the Power Holding Company.

The petitioner is aggrieved by the provisional assessment order dated 1.12.2014 which forms part of Annexure-3 series as well as the final assessment order dated 4.12.2014 as contained in Annexure-4 to the writ petition.

The facts of the case briefly stated is that following an inspection held on 29.11.2014, a report of which again forms part of Annexure-3 series, that an FIR was instituted against the petitioner charging him with irregularities giving rise to Hawai Adda P.S. Case No. 236 of 2014 registered for the offence



punishable under section 135 of the Electricity Act, 2003 (hereinafter referred to as 'the Act') as contained in Annexure-5 to the writ petition. The loss suffered by the Power Holding Company was quantified at Rs.1,31,916/-. It is thereafter that a provisional bill was served on the petitioner on 1.12.2014, a copy of which forms part of Annexure-3 series containing the calculation which resulted in quantification of the provisional bill. The petitioner filed his objection and considering which a final assessment order was passed on 4.12.2014, a copy of which is placed at Annexure-4 and whereby the provisional amount was reduced to Rs.1,01,399/-.

It is not in dispute that the criminal case is pending adjudication before the Special Court and who is also vested with the power of determining the civil liability but along side the petitioner is also vested with the legal right to question the final assessment order dated 4.12.2014 before the appellate authority under section 127 of 'the Act'.

That the final assessment order having been passed on 4.12.2014 and the present writ petition was filed on 12.1.2015 this Court is of the opinion that even if a number of issues have been raised by Mr. Singh, learned counsel appearing for the petitioner to question such order, the appropriate remedy for the petitioner at this stage lies by filing an appeal under

section 127 of 'the Act' and this writ petition is disposed of affording the petitioner such liberty. The petitioner shall be at liberty to raise all issues as raised herein before the appellate authority.

It goes without saying that any such appeal being filed by the petitioner within four weeks from today be considered and disposed of on its own merits by the appellate authority and after giving opportunity of hearing to the petitioner.

It is stated by Mr. Prabhat Ranjan Singh, learned counsel appearing for the petitioner that in the meanwhile the line of the petitioner has been disconnected and thus he prays for interim relief pending adjudication by the appellate authority.

Considering the submissions made by learned counsel for the petitioner it is directed that if the petitioner would deposit 50% of the final assessment amount before the Assessing Authority, his line would be restored within 48 hours thereafter by the authority concerned. The balance amount payable shall be subject to the final outcome of the proceedings.

The writ petition is disposed of.

(Jyoti Saran, J)

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