

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1116 of 2015

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1. Md. Tanveer Ahmad @ Md. Tanveer Son of Md. Ahsan, Resident of Mohalla - Agrawal Tola, At Alamganj, P.O. - Alamganj, P.S. - Alamganj, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Chairman, South Bihar Power Distribution Co-ltd., Patna.
2. The Chief Engineer, Vidhyut Bhawan, Bihar State Electricity Board, Bihar, Patna.
3. The Superintending Engineer, East Circle, Bihar State Electricity Board, Bihar, Patna.
4. The Executive Engineer, Gulzarbagh Sub-division, Bihar State Electricity Board, Bihar, Patna.
5. The Assistant Engineer, At Gayghat, Patna City, Bihar State Electricity Board, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Mushtaque Alam, Adv.

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

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 17-04-2015 Heard learned counsel for the petitioner and Mr. Anand Kumar Ojha, learned counsel for the Power Distribution/Holding Company.

In the nature of order this Court proposes to pass it will not require to await the filing of counter affidavit.

Brief facts of the case is that following detection of alleged irregularity in an inspection held on 21.9.2011 that a police case was instituted against the petitioner for the using electricity through unauthorized means and resulting in registration of a



police case bearing Alamganj P.S. Case No. 257 of 2011 registered under Section 135/138 of the Electricity Act, 2003. On the basis of irregularity found in the inspection report, a punitive bill was quantified at Rs. 3 lacs 20 thousand. The petitioner seeking restoration of his electrical energy moved this Court through C.W.J.C. No. 21397 of 2011 which prayer was allowed subject to deposit 40% of the said amount vide order passed on 5.1.2012 placed at Annexure-7. Annexure-6 is an order passed on the bail application of the petitioner by the Special Court, Patna and which manifests that an undertaking has been given by the petitioner to make good the loss assessed by the respondents to the tune of Rs. 3 lacs 20 thousand in monthly installments. The petitioner after unsuccessfully, questioning the provisional assessment filed appeal under Section 127 of the Code bearing Appeal No. 2 of 2003 and which has been dismissed vide order passed on 13.10.2014 by the appellate authority vide Annexure-8 and being aggrieved the petitioner is before this Court.

I have heard learned counsel for the parties and I have perused the materials on records.

The appellate authority has confirmed the punitive assessment made by the assessing authority of Rs. 3 lacs 20 thousand. The petitioner has made an undertaking before the

Special Court where the criminal case is pending bearing Special Case No. 130 of 2013 to make payment of the entire punitive amount of Rs. 3 lacs 20 thousands. Section 154(5) of the Act vests jurisdiction in the Special Court to determine the civil liability and if such determination is greater than the punitive amount then the consumer is to make good the loss and if the civil liability falls below the assessment then he is entitled to refund/adjustment.

In view of such uncontested legal position and in view of the provisions underlying Section 154(5) of the Act which makes any assessment subject to final determination of civil liability by the Special court, I am not persuaded to interfere with appellate order at this stage but before parting with the order , I would hold that the appellate order affirming the punitive bill would be subject to the determination of civil liability by the special court under Section 154(5) of the Act.

The writ petition is accordingly disposed of.

(Jyoti Saran, J)

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