

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18381 of 2011

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Rajesh Kumar Kochgaway, Director M/S Sri Om Scan Centre Son Of Late Shashi Bhushan Kochgaway Resident Of Mohalla - Rajendra Nagar, Road No.- 2, Police Station - Kadamkuan, District – Patna Petitioner

Versus

1. The Bihar State Electricity Board , Through The Chairman, Vidyut Bhawan , Bailey Road, Patna
2. The Secretary, Bihar State Electricity Board, Bailey Road, Patna
3. The Financial Controller (Rev,) Bihar State Electricity Board, Bailey Road, Patna
4. The General Manager-Cum-Chief Engineer, Pesu, Bailey Road, Patna
5. The Electircal Executive Engineer, Electric Supply Sub-Division, Rajendra Nagar, Patna
6. The Electircal Executive Engineer, Electric Supply Sub Division, Rajendra Nagar, Patna
7. The Asstt. Electrical Engineer, Electric Supply Sub-Division, Rajendra Nagar, Patna Respondents
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with

Civil Writ Jurisdiction Case No.5596 of 2012

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1. The Bihar State Electricity Board Through Its Secretary Vidyut Bhawan, Bailey Road, Patna
2. The Electrical Executive Engineer Electric Supply Sub-Division, Rajendra Nagar, Patna
3. The Assistant Electrical Engineer Electric Supply Sub-Division, Rajendra Nagar, Patna Petitioners

Versus

1. Rajesh Kumar Kochgaway S/O Late Shashi Bhushan Kochgaway R/O Mohalla- Rajendra Nagar, District- Patna
2. M/S Sri Om Scan Centre Through Its Director Sri Rajesh Kumar Kochgaway R/O Mohalla- Rajendra Nagar, Road No.2, P.S.- Kadamkuan, District- Patna
3. The Appellate Authority Cum Electrical Executive Engineer Electric Works Division, Patna Energy Deptt., Bihar, Patna Respondents
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Appearance :

(In CWJC No.18381 of 2011)

For the Petitioner/s : Mr. Ajoy Kumar Chakraborty, Advocate

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

(In CWJC No.5596 of 2012)

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

For the Respondent/s : Mr. Rishiraj Sinha GP19

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL ORDER

9 06-08-2015 The two writ petitions, namely, C.W.J.C.Nos. 18381 of 2011 5596 of 2012 are taken up together.

Petitioner Rajesh Kumar Kochgaway of C.W.J.C.No.18381 of 2011 seeks implementation of a part of order dated 27.12.2010, passed by the Appellate authority in Appeal case no. 15 of 2010, whereas C.W.J.C.No. 5596 of 2012 has been filed by the Bihar State Electricity Board, challenging the validity and legality of the said order.

The petitioner Rajesh Kumar Kochgaway took a load of 30 KW for his premises in the name and style “Sri Om Scan Centre” bearing Consumer Account no. 2273310 under supply Sub division Rajendra Nagar, Patna under non domestic category. His premises was inspected on 21.10.2008 by STF and reported that the “meter appears to be giving slow reading, to be checked by MRT, to be replaced by secure meter.” However, on 10.2.2009 again inspection of the premises was made and was found that the calculated load was only to the extent of 26.268 KW out of sanctioned load of 30 KW. But the respondents prepared a false report of tampering of meter and consequently a punitive bill was issued for Rs.10.53 lacs. A criminal case, being Kadam Kuan Police Station case no. 50 of 2009 dated 10.2.2009 under sections 135 and 136 of the Electricity Act, 2003 (amended in 2007) was also lodged

against the petitioner alleging that the seal of the meter box, meter terminal and meter body were found tampered.

The petitioner while pursuing for the anticipatory bail, prayed for payment of the said bill in instalments under protest and thus he deposited the entire amount. The petitioner also filed C.W.J.C.No. 3162 of 2009 for quashing the impugned punitive bill and restoration of electric connection. The writ petition was disposed of on 17.3.2009 with liberty to the petitioner to file appeal. The petitioner filed appeal on 30.3.2009.

The petitioner also filed C.W.J.C.No. 3392 of 2010 for a direction to the respondents for stopping further recovery till the appointment of appellate authority. The writ petition was disposed of on 19.4.2010 with a direction to the petitioner to file appeal before the Executive Engineer cum Electric Inspector, Energy Department, Government of Bihar and the Appellate authority was also directed to decide the appeal on merit within three months. The learned judge noticed that the appellate authority earlier, was not notified, and the appeal was filed before a wrong authority probably before the Regulatory commission. Said appeal was heard and disposed of on 27.12.2010 directing that (1) the parties would have the meter inspected within a month and (2) in case the meter is found



running slow, then the bill would be calculated accordingly and 50% of the deposited amount would be adjusted and the rest 50% would be refunded to the petitioner. While coming to the aforesaid conclusion, the Appellate authority noticed that the “meter appears to be giving slow reading, to be checked by MRT, to be replaced by secure meter.” The appellate authority further observed that the petitioner moved the authorities to have the meter checked. But it appears no steps were taken for checking the meter. Again after four months, the premises of the petitioner was inspected on 10.2.2009 in which seal of the meter was found to be tampered. The appellate authority, in view of letter of the Chief engineer of the Board, observed that *ipso facto* it cannot be not construed that the petitioner tampered the meter and committed the theft of energy without checking the meter. It appears that on consideration of the aforesaid materials, the appellate authority issued the said directions.

Mr. Vinay Kirti Singh, learned counsel appearing for the Board submits that the order was conditional and based upon checking of the meter of the petitioner, which is lying in the Malkhana of Kadamkuan Police Station as exhibit in Kadam Kuan Police Station case no. 50 of 2009 dated 10.2.2009. He further submits that presently the court of Special judge, Electricity is more or less vacant.

Having regard to the facts and circumstance of the case, I direct the Assistant Electrical Engineer, Machuatoli or any one authorized by respondent no.6 (of C.W.J.C.No. 18381 of 2011) would visit Kadamkuan Police Station with request letter for handing over the same for its checking. On receipt of the information, the latter would hand over the same with information to the petitioner or his representative for its testing. Once the mater is checked, it is to be returned to the Malkhana with due information to the Special Judge, Electricity. The bill would be calculated as per the report on the meter testing. The direction issued by the appellate authority with respect to adjustment or refund would also be adhered to by the authorities of the Board/the Power Company. If the officials of the Board/Power Company do not comply with the decision within three months, the order of appellate authority would become final.

With the aforesaid directions, the writ petitions are disposed of.

(Samarendra Pratap Singh, J)

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