

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1904 of 2013

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Bhadrashil Kumar S/O Sri Ramgati Singh R/O Village- Deo Road Amba,
P.O.+P.S.- Amba (Deo), District- Aurangabad

.... Petitioner/s

Versus

1. The Bihar State Electricity Board having its office at Vidhut Bhavan Beli Road, Patna, through its Chairman
2. The Chairman, Bihar State Electricity Board, Vidhut Bhawan, Beli Road, Patna
3. Director (Revenue), Bihar State Electricity Board, Vidhut Bhawan, Beli Road, Patna
4. Chief Engineer (Commercial), Rural Vidhutikaran, Bihar State Electricity Board, Vidhut Bhawan, Beli Road, Patna
5. General Manager - Cum - Chief Engineer Magadh Electric Region, Board, Gaya
6. Electrical Superintending Engineer Electric Supply Circle, Gaya, L.O.I. for Rural Franchisee
7. Electrical Executive Engineer Electric Supply Division, Aurangabad
8. Assistant Electrical Engineer Electric Supply Sub-Division, Navinagar, Aurangabad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Pandey, Adv.
For the Respondent/s : Mr. Ratan Prasad Sinha, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

6 04-01-2016 This writ petition has been filed by a franchisee of the erstwhile Bihar State Electricity Board since dissolved to form five distribution companies including the South Bihar Power Distribution Company Ltd., Patna calling upon them to make payment of the commission payable to the petitioner under the agreement entered in between the parties, a copy of which is present at Annexures-1, 2 and 3 series for the period 2008-11.

I have heard Mr. Sanjay Kumar Pandey, learned counsel

appearing on behalf of the petitioner and Mr. Ratan Prasad Sinha, learned counsel appearing for the Distribution Company.

It is a matter of record that the petitioner entered into an agreement with the erstwhile Bihar State Electricity Board for distribution of electricity bill to the consumers, collection of revenue, attending the fuse off call as well as to minor breakdowns and other ancillary works connected with franchisee. A copy of such agreement is present at Annexures-1, 2 and 3 series. The grievance of the petitioner is that though he operated under the franchisee with effect from November, 2008 to March, 2011 but has not been paid his commission. A counter affidavit has been filed and in Paragraphs 3, 4, 9 and 12 a stand has been taken that since the petitioner failed to achieve the minimum target hence as per the clause of agreement, he was not found entitled to any commission.

This matter was heard on 21.12.2015 and when it was submitted by Mr. Sinha, appearing for the Distribution Company with reference to the note present under Clause-2 of the agreement read with Paragraph-21 of the counter affidavit that the minimum target to be achieved by the franchisee as per the current assessment was Rs. 26, 815/- and since the collection of the petitioner during the contract period failed to meet the target hence



he was not found entitled to the commission. Learned counsel further with reference to Clause-9.2 of the agreement has submitted that the agreement itself provides for a forum for resolution of any dispute and which lies before the General Manager-cum-Chief Engineer of the Electricity Board. Since the Board stands dissolved to form five companies including the South Bihar Power Distribution Company Ltd. hence this Court directed Mr. Sinha to ascertain as who would be the authority competent to resolve the dispute. The matter has thereafter been taken up today when a second supplementary affidavit has been filed on behalf of the petitioner enclosing a chart and with reference thereto, it is argued by Mr. Pandey that the stand taken by the respondent is wholly incorrect for it is apparent from the chart itself that the petitioner had achieved the minimum target in each month. He thus submits that in the circumstances reflecting from the chart it is an arbitrary act on the part of the respondents to withhold the commission of the petitioner.

Mr. Sinha on the other hand informs this Court that under the new arrangement it is the Chief Engineer (Commercial) who has been vested with the duties and responsibility of the General Manager-cum-Chief Engineer of the erstwhile Board and in terms of the provisions of the agreement it would be the Chief Engineer

(Commercial), South Bihar Power Distribution Company Ltd. who would consider the dispute and pass appropriate orders provided the petitioner raises such claim along with supportive documents.

Having heard learned counsel for the parties and considering the nature of contest as well as the developments taking place in the matter where the Bihar State Electricity Board has been replaced by the South Bihar Power Distribution Company Ltd. and other companies so constituted, I deem it fit and proper to dispose of this writ petition with a direction to the petitioner to file his claim before the Chief Engineer(Commercial), South Bihar Power Distribution Company Ltd. along with supportive documents as well as the copy of this order within four weeks from today and any such claim so filed by the petitioner would be considered by the Chief Engineer (Commercial) and dispose of the same in accordance with law after giving an opportunity of hearing to the petitioner expeditiously and preferably within a period of three months from the date of filing of such application.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

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