

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1689 of 2015

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Shabeen Perween D/o Late S.M. Abdus Samad Resident of Mohalla - Dargah
Road, P.S- Sultanganj, P.O- Mahendru District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Energy Department.
2. South Bihar Power Holding Corporation through its chairman, Bailey Road, Patna.
3. The Electrical Executive Engineer Electric Supply Division Gulzarbagh, Patna City.
4. Assistant Electrical Engineer Cum- Assessing Officer, Electric supply Sub-Division Gaighat, Patna City.
5. The Junior Electrical Engineer Electric Supply Section, Pathar Ki Masjid Patna.
6. Managing Director Bihar State Power Holding Company Limited.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prabhat Kumar

For the Respondent/s : AC to GA5

Mr. Anand Kumar Ojha

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 04-01-2016

Heard Sri Prabhat Kumar, learned counsel for the petitioner, learned AC to GA No. 5 as well as Sri Anand Kumar Ojha, learned counsel who has appeared on behalf of the respondent no. 2 to 6 /Bihar State Power Holding Corporation.

The petitioner invoking writ jurisdiction of this court under Article 226 of the Constitution of India has prayed for directing the respondents to restore the electric connection of the petitioner and further prayer has been made to direct the respondents to comply the order dated 30.9.2014 passed by the Additional Collector, Patna in

Electricity Appeal Case No. 61 of 2014.



Short fact of the case is that on an allegation of theft of electricity a case was instituted against the petitioner vide Patna City (Sultanganj) P.S. Case No. 53 of 2014 registered under Section 135 /138 of the Electricity Act, 2003. At the same time electricity supply was disconnected and assessment order was passed. Against the assessment order the petitioner preferred an appeal vide Electricity Appeal Case No. 61 of 2014 before the Additional Collector, Patna, which was allowed and the Additional Collector, Patna after setting aside the assessment order remitted back the matter to the assessing authority to pass order afresh. It has been complained by learned counsel for the petitioner that despite the fact that order was passed long back in the month of September 2014, till date neither assessing authority has passed order afresh nor electric connection has been restored and as such, a prayer has been made to allow the writ petition directing the respondents to restore the electric connection and pass assessment order afresh.

Of -course in this case a counter affidavit has been filed on behalf of the respondents / Bihar State Power Holding Corporation, but nothing has been indicated as to whether against the order of the appellate authority the Bihar State Power Holding Corporation has preferred any appeal or not, however, a stand has been taken that

order passed by the appellate authority is not correct.

The court is of the opinion that once a quasi judicial authority exercising its power has passed order in appeal and remitted back the matter to the assessing authority, the respondents are not entitled to raise any issue in respect of the said order unless the respondents had preferred any appeal or assailed that order before the authority concerned. In the counter affidavit nothing has been indicated as to whether against the order under challenge any appeal has been preferred or not.

In view of the facts and circumstances the court is of the opinion that writ petition can be disposed of with a direction to the assessing authority to pass order afresh in view of the order passed by the Additional Collector, Patna in Electricity Appeal Case No. 61 of 2014. Since inordinate delay has already occurred while disposing of this matter it is desirable to direct the authority concerned to pass final order in view of the order of the appellate authority within a period of six weeks from the date of receipt /production of a copy of this order. If final order is not passed the petitioner would be at liberty to avail appropriate remedy for restoration of electricity connection.

It goes without saying that if the respondents/Bihar State Power Holding Corporation desires to challenge the order of the appellate authority they would be at liberty to avail appropriate

remedy. Order by the assessing authority must be passed within a period of six weeks, failing which, the respondents are directed to restore the electric connection of the petitioner immediately thereafter.

(Rakesh Kumar, J)

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