

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.723 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 9351 of 2013**

- =====
1. The South Bihar Power Distribution Company Ltd. through its Managing Director having its Head Office at Vidyut Bhawan, Bailey Road, Patna - 1 .
 2. The Electrical Superintending Engineer, Electric Supply Circle, Bhagalpur
 3. The EEE Electric Supply Division, Bhagalpur (Urban)
 4. The AEE (Rev.) Electric Supply Sub-Division, Bhagalpur
 5. The AEE Electric Supply Sub-Division, Tilkamanjhi, Bhagalpur

All the appellants are represented through the Law Officer, South Bihar Power Distribution Co. Ltd. Vidyut Bhawan, Bailey Road, Patna.

.... Appellant/s

Versus

1. The Consumer Grievance Redressal Forum, Vidyut Bhawan- II, Bailey Road, Patna through its Chairman .
2. M/s Oswal Agro Food, through its Proprietor Rupesh Kumar Baidya , Resident of House No. - 33/C, Patel Babu Road, Bhagalpur - 1 .

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Prakash Kumar, Advocate.

For Respondent No.2: Mr. Anil Kumar Singh, Advocate.

For Respondent No.1: Mr. Anil Kumar, A.C. to S.C. 8

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 03-08-2016

Heard learned counsel for the parties.

2. The challenge in the present Letters Patent Appeal is



to an order passed by the learned Single Bench of this Court on 25th of June, 2014 in C.W.J.C. No. 9351 of 2013, whereby the order of Consumer Grievance Redressal Forum, Patna (hereinafter referred to as “the Forum”) constituted under Section 42(5) of the Electricity Act, 2003 (hereinafter referred to as “the Act”) was not interfered with.

3. The consumer, Respondent No. 2 herein, as per assertion made in the writ application, applied for fresh electric connection under Low Tension Tariff for connected load of 92 H.P. which was granted on 8th of February, 2010. The consumer applied for extension of load from 92 H.P. to 220 KVA under High Tension Category on 13th of October, 2010. The feasibility report was prepared on 28th of October, 2010. It is at that stage, the consumer made a request on 8th of November, 2011 that presently there is no need for load of 220 KVA on the ground that he has not been allotted plot for the purpose as such he was unable to extend the plant. However, it was stated that load of 110 H.P. was being used in the premises since 13th of October, 2010 i.e. from the date of application. It is thereafter, the load of 92 KVA i.e. 110 H.P. was sanctioned on 24th of December, 2011. After issuance of such letter, the consumer, deposited additional security and also executed an agreement.

4. The stand of the appellant-distribution company is that the appellant issued energy bill under H.T. category in the month

of January, 2012 which bill was disputed by the consumer before the Forum constituted under the notification guidelines of Bihar Electricity Regulatory Commission on 22nd of May, 2006.

5. A perusal of the Bihar Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2006 shows that in case of a complaint, the consumer can approach the Forum. If any consumer is aggrieved by an order made by the Forum, he may prefer representation to the Electricity Ombudsman but no right has been given to the licensee, such as the present appellant-distribution company, to dispute the order passed by the Forum. The Forum has ordered that the claim of the appellant for charges of the enhanced capacity is not tenable as the additional load was not released to the consumer.

6. In view of the said fact, the appellant-distribution company approached the Writ Court by filing a writ application, which writ application has since been dismissed by the learned Single Bench.

7. The entire argument of the appellant-distribution company is that the consumer is a High Tension Tariff Consumer for which he has deposited the security amount and also executed an agreement. Therefore, the bill has been rightly issued. The Forum examined the question as to whether the appellant-distribution



company could raise the electricity bill under High Tension Tariff without giving High Tension supply to a consumer. The Forum found that the appellant-distribution company has issued energy bill under High Tension Tariff on 110 KVA contract demand whereas the consumer is availing the power in Low Tension system as the requisite formalities for High Tension connection has not been completed as yet. It was found that such energy bill has been raised in contradiction to an order passed by the High Court and of its own order. The relevant finding of the Forum is as under:-

“After careful examination of the case and on the basis of observation made above the Forum comes to conclusion that the respondents are not entitled to issue energy bill on HT tariff without giving supply on HT system to the consumer, therefore bill issued on Jan’2012 for Rs. 12,28,122/- on HT tariff with retrospective effect from Oct’2010 on 92 HP or 110 KVA contract demand is illegal and arbitrary, thus stands quashed and further installment agreement dated 25.04.2012 for Rs. 13,94,342/- also stands terminated as the installment is based on illegal and wrong demand.

Thus it is directed that the energy bills dated 18.02.2012 be withdrawn and revised on 92 Hp load under LTIS tariff and from Feb’ 2012 onward bills be issued on LTIS tariff on 92 HP load till all the formalities for HT supply is completed and HT supply is made available to the petitioner consumer.

Further at this stage it is suggested that a notice be given to the petitioner to complete all the requisite formalities required for HT supply within two months to reduce the load to the limit of maximum of limit for LTIS category as specified if the petitioner wants to remain under LTIS category, failing

which the line of the petitioner would be disconnected.”

8. Such finding recorded by the Forum was not interfered with by the learned Single Bench.

9. The stand of the appellant-distribution company is that since the consumer was using dedicated transformer even when he was granted Low Tension connection, therefore, nothing more was required to be done for converting the connection to High Tension Connection.

10. Whether the sanction of the load by itself makes the consumer a High Tension consumer is a matter for the experts to examine and decide. The Forum consisting of expert members have examined the said aspect and found that the formalities have not been completed for grant of High Tension connection. In absence of release of High Tension connection, even if the consumer was having dedicated transformer will not make him liable for High Tension tariff unless such connection is actually granted to the unit of the consumer. The Forum has been created for redressal of the grievances of the consumer. We do not find that the decision of the Forum can be challenged by the licensee only for the reason that it has issued a letter for sanction of High Tension connection but without actually releasing the High Tension connection.

11. We do not find any error in the order passed by the

learned Single Bench which may warrant any interference in the present intra court appeal.

12. The Letters Patent Appeal is, thus, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P.K.P./Anand
N.A.F.R.

U			
---	--	--	--