

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1503 of 2014

IN

Civil Writ Jurisdiction Case No. 16139 of 2013

- =====
1. The Bihar State Power (holding) Company Limited.
 2. Chairman-cum-Managing Director, Bihar State Power (holding) Company Limited.
 3. Assistant Electrical Engineer, Electric Supply Division, Gaya Rural.
 4. Electrical Executive Engineer, Electric Supply Division, Gaya Rural.
- Appellants

Versus

Mahendra Prasad, son of Late Sidheshwar Prasad, Resident of Nutan Nagar, P.S-Civil Lines, District-Gaya.

.... Respondent

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Appearance :

For the Appellants : Mr. Vinay Kirti Singh, Advocate

For the Respondent : Mr. Kumar Dharendra Pratap Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 09-02-2016

Delay in filing the appeal is condoned.

2. Heard learned counsel for the appellant,

the Bihar State Power (holding) Company Limited, as well as the contesting respondent, who was the writ petitioner.

We see no reason to interfere with the judgment and order of the learned Single Judge.

3. Having heard the counsels at length and

with consent of the parties, we are disposing of this appeal at this stage itself.

4. The facts are not much in controversy.

The writ petitioner had a low tension industrial connection with sanctioned load of 15 H.P. Allegedly, an inspection was conducted on his premises on 26.11.2012. The alleged inspection report, which was not served on the consumer, has been annexed as Annexure – A to the counter affidavit. We have gone through it and it does not inspire confidence. It has no signature of the consumer nor of consumer's representative, nor does it mention that consumer refused to receive it, nor does it mention that it was ever served on the consumer or stuck on the consumer's premises. Such a report can be prepared by anyone sitting wherever they feel like. We agree with the learned Single Judge in this regard. We may clarify that notwithstanding there being no dispute that there was an inspection, the dispute was whether the inspection report reflects what was found in course of the inspection or not. To that, we agree with the learned Single Judge, that it does not. If, such reports are given authenticity or validity, then, not a single consumer would be safe. Such a submission on behalf of the appellant virtually amounts to submitting that the officers and officials of the Board are the only truthful persons and all





the consumers, whose premises are inspected, are habitual liars. Neither the facts nor the law justify this presumption and that is why the legislatures have provided a procedure for objections and assessments. Objections and assessments are part of a quasi-judicial process and have to be transparent.

5. We may also refer to Annexure – B of the Counter Affidavit in the writ application, which, as per the Power Holding Company Limited, is the provisional assessment. To us, it is an apology of an assessment. If it can at all be called an assessment. All it says that inspection was conducted on 26.11.2012, excess load and that too an estimate of 32-35 H.P. in excess was found. This was found in excess which is punishable. A punitive bill of Rs. 6,01,740/- is annexed. What are the calculations? Where is the inspection report? Where is the assessment? Nothing has been disclosed. The bill is then Annexure-B/1, which only shows the net amount and the bill is drawn on 03.12.2012, though, this letter of provisional assessment annexing the bill is dated 29.11.2012.

6. In fairness to learned counsel for the appellant, Bihar State Power (holding) Company Limited,



he submits that neither the provisional assessment nor the bill is in accordance with law nor the legal requirements of the Electricity Act, 2003 or the Electricity Supply Code, 2007 have been followed. If, that be so, then, everything has to fall to ground. There is no valid provisional assessment. There is no final assessment. There could not be a demand, and, the demand not being there, there could not have been a disconnection for non-payment of the said illegally raised demand.

7. As we have already held that the inspection report had it been genuine, bonafide, it should have been annexed to the very first communication of the punitive bill. It is being disclosed for the first time in the Court by way of Annexure 'A' of the Counter Affidavit in the writ application. Apart from the earlier stated reasons, this is one of the reasons which does not inspire any confidence before the Court.

8. Learned counsel for the appellant further submits that the inspection is not challenged. We agree with him. Merely because an inspection was there, it does not follow that the inspection report automatically becomes bonafide and correct. The facts as we have noted above,

notwithstanding the inspection, the report loses its authenticity.

9. For the reasons aforesaid, we have no reason to interfere with the judgment and order of learned Single Judge. This appeal is, accordingly, dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

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