

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2239 of 2014

In

Civil Writ Jurisdiction Case No. 21811 of 2013

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Fakira Bhagat, son of D. Bhagat, resident of mohalla –
Dhamraichak, P.S. & District – Lakhisarai.

.... Petitioner

Versus

1. South Bihar Power Distribution Company Ltd. through its Chairman now Managing Director, Jawaharlal Nehru Path, (Bihar State Electricity Board), Patna namely Mr. R. Lakshman.
2. Sri Brij Keshwar Singh, the Executive Engineer, Electric Supply Division, Bihar State Electricity Board, Lakhisarai.
3. Sri Sujit Kumar, Assistant Electrical Engineer, Bihar State Electricity Board, Electric Supply Division, Electricity Department, Lakhisarai (Bihar).

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Murli Dhar

For the Respondent/s : Mr. Vinay Kirti Singh

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
ORAL ORDER

4. 27-07-2016

Heard learned counsel for the parties.

Petitioner's premises, which was connected to the electric supply, was disconnected on 28.02.2005 for default in payment of about Rs. 89,000/-. On 06.02.2013, STF conducted an inspection and they allegedly found that the petitioner was unauthorizedly running a flour mill (Anta Chakki) with 8 HP motor. They allegedly seized some wires. A First Information Report was lodged and petitioner was arrested. Subsequently, a provisional

assessment demand was served on the petitioner. He came to this Court in a writ petition, where this Court held that before the demand could be enforced a final assessment, after hearing the parties, in accordance with Section 126(3) of the Electricity Act, 2003 (in short the “Act”) had to be passed. Petitioner filed a representation, but when nothing was done, then, the proceeding for initiating contempt was filed in 2014. While the matter was ultimately taken up, a pre-printed one paragraph order was produced by the South Bihar Power Distribution Company Limited (in short the “Company”) purporting to be the final assessment. The alleged final assessment shocked this Court. The reason was that Section 126(3) of the Act contemplates an assessment order. After taking into account, objection that may be filed by the consumer, this predicates that the order is conscious exercise of power which are quasi judicial in nature. It does not mean that merely because inspection has been conducted by the STF of the Company, the Assessing Officer is bound by what is said by the STF or that the STF allegations are the absolute untenable truth in the matter. If that were the position, then there would be no question of a provisional assessment and a final





assessment after objections. The broad purpose was that independent mind be applied by the Engineer once again and evaluate the matter for final determination. A pre-printed order devises the said provision. There was no discussion about the show cause or the objection filed, no application of mind was at all apparent. This Court took serious objection, accordingly.

Now, the Assessing Officer-cum-Assistant Engineer is personally present in the Court and a supplementary show cause has been filed and the record produced. From the supplementary show cause, it is now apparent that assessment order being final order has been passed. Petitioner had also filed a supplementary objection petition on 08.07.2016 pursuant to notice issued by Assessing Officer. This Court would like to say is, it is not obligatory on the part of Assessing Officer to accept what is said in the inspection. Court has the possible truth. The Consumer has been given a right to file his protest. Once such protest is filed, then dispassionately the matter has to be decided by the Officer and the order so passed must show complete application of mind and various grounds taken in the objection petition have to be considered. All

that has to appear from the order itself, the order being quasi judicial in nature has now the final assessment has been passed. It would be for the petitioner to take such legal remedy, as may be advised, against that order. There would be no purpose in pursuing this matter any further.

This application is, accordingly, disposed of.

(Navaniti Prasad Singh, J.)

Rajeev/-

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