

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.48 of 2014

In
Civil Writ Jurisdiction Case No. 262 of 2011

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1. Jeevan Sangham, Dumahan, Bodha Gaya Through Its Director, Fr. Jose Kariakatt, S.J. S/O Late Varkey Kariakatta Resident Of Jeevan Sangham, Dumahan, P.S- Bodhgaya, District- Gaya.

.... Petitioner/s

Versus

1. Mr. Swapna Mukherjee Chairman Bihar State Electricity Board, Vidyut Bhawan, Patna.
2. Mr. Suresh Prasad Verma, The Electrical Executive Engineer, Bihar State Electricity Board, Gaya Supply Division, Gaya.
3. Mr. Jitesh Ojha Assistant Electrical Engineer, Electric Supply Sub Division, Bodhgaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. K.M. Joseph, Advocate

For the Respondent/s : Mr. Anand K. Ojha, Addl. Standing Counsel
Mr. Ashok Karna, Advocate

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

9 12-08-2016 Heard learned counsel for the petitioner as well as learned counsel representing the Opposite Parties.

2. On account of non compliance of order impugned dated 01.02.2012 within stipulated period as directed (Annexure-1), instant MJC has been filed at the end of petitioner with a prayer that Opposite Parties be proceeded with under the Contempt of Court Act.

3. After going through the order impugned, it is evident that at an initial stage, while the petitioners were in occupation of single premises, they were provided with a domestic connection. Subsequently thereof, they have constructed other structure



wherein religious activities were carried out and for that no separate connection till then was taken up whereupon a dispute arose regarding identification of tariff rate whereupon CWJC No. 262/2011 had been filed after getting adverse order from the Electricity Consumer Grievance Redressal Forum.

4. The Court while considering and identifying the establishment, bifurcated the same under two categories for realization of tariff, the first one, domestic being occupied by Jesuit Fathers for residential purpose and the other as non domestic where the other activities than the domestic one was taken up. During course thereof, bifurcation of tariff has also been perceived. One for residential house to be identified under domestic category while other for non domestic category and for that Clause 2.3 of Tariff Rules has been directed to be applied for.

5. After having proper identification in the aforesaid terms, the order of Consumer Grievance Redressal Forum has been modified and further the Court had put an obligation upon the petitioner to apply for a separate domestic as well as non domestic connection for the aforesaid two independent establishments.

6. Side by side, the Court also directed the Assistant Electrical Engineer to consider the objection having raised on



behalf of petitioner with regard to billing and pass appropriate orders. Although, as perceived at an earlier occasion, the original petition lacks the same. However, by way of supplementary affidavit, the matter has been brought up regarding non compliance.

7. As per supplementary affidavit, it is evident that installation of second meter has been effected on 20.12.2014 after having second application which, according to learned counsel for the Opposite Parties was necessary in the background of the fact that even during filing of first petition, there was some mistake on the part of the petitioner. Therefore, belatedly, there happens to be application at the end of the petitioner followed with new connection. And so, order is found complied with to that extent.

8. The second question now arises for consideration is that as per learned counsel for the petitioner the identification of Tariff Rate in terms of Clause 2.3 of the Tariff Rules is to be calculated in retrospective manner. After going through the order impugned, it is evident that nowhere it has been directed nor observed that application of Clause 2.3 of Tariff Rules will be made in retrospective manner. However, directing the Assistant Electrical Engineer to consider the objection, no such eventuality has been allowed to be considered by the Assistant Electrical

Engineer.

9. It is settled principle of law that unless and until specifically directed, the matter is to be considered in prospective manner and not in retrospective manner. That being so, I do not see any cogent and legal ground to accede to the prayer of the petitioner that calculation of Tariff Rate in terms of Clause 2.3 of Tariff Rules should be allowed to be calculated in retrospective manner and on that very score, the instant petition sans merit and is, accordingly, rejected.

10. However, it is made clear that if the petitioner so desires, may seek proper remedy by taking an appropriate legal recourse.

(Aditya Kumar Trivedi, J)

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