

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1320 of 2016

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1. Ganesh Kumar Singh Son of Late Sita Ram Singh
2. Sailesh Kumar Singh Son of Ganesh Kumar Singh Both resident of Ganesh Nursing Home, Kadam Kuan, P.S. Kadam Kuan, Town & District - Patna

.... Petitioner/s

Versus

1. The Bihar State Power Holding Corporation, Vidyut Bhawan, Bailey Road, Patna through its Managing Director
2. The Managing Director Bihar State Power Holding Corporation, Vidyut Bhawan, Bailey Road, Patna
3. The Chief Engineer (Commercial), South Bihar Power Distribution Co. Ltd., Vidyut Bhawan, Baily Road, Patna 800001
4. The General Manager - Cum - Chief Engineer, PESU, Mangles Road, Patna 800001
5. The Electrical Executive Engineer, Electric Supply Division, Dak Banglow, Bander Bagicha, Patna 800001
6. The Assistant Electrical Engineer, Electric Supply Sub - Division, Kadam Kuan, Patna 800003

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suraj Samdarshi
For the Respondent/s : Mr. Anand Kumar Ojha
For the State : Mr. Ashok Karn, AC to SC

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 27-03-2017

Heard the parties.

Learned counsel for the Bihar State Power Holding Corporation (hereinafter referred to as the Power Holding Corporation) has raised objection that amendment petition vide I.A. No.,7107 of 2016 be not taken into consideration as nature of amendment is completely changing the nature of the dispute itself which is not permissible as in the main writ petition the



petitioners have sought a relief in the nature of mandamus giving direction to the respondents not to charge the amount towards meter testing at testing centre at Bhopal where as in the interlocutory application the petitioners have challenged the electricity bill which has been demanded from the petitioner. It will be relevant to quote prayer of the main writ petition as well as prayer of the interlocutory application:

Prayer of the main writ petition:

“ That the present writ petition is being filed on behalf of the petitioners for issuance of writ/writs in the nature of a writ of Mandamus commanding the respondents, inter alia, not to charge any amount/fee towards meter testing in purported compliance of the direction/directions of Appellate Authority dated 29.12.2010 passed under the powers conferred under Section 127 of the Bihar Electricity Act'2003 in Appeal No.14 of 2010 to examine the seized meters of the petitioners and prepare the bills accordingly and adjust the charges of consumed energy in excess deposited amount and further after adjusting the same, refund the further excess amount to the petitioners forthwith and for further direction/directions to grant relief/reliefs in view of the Hon'ble Court's order dated 09.04.2015, who, inter alia, pleased to allow the writ petition with the direction to comply the appellate



authority's order dated 29.12.2010 and for consequential relief/reliefs in the facts and circumstances of the case the petitioners may entitle too."

Prayer of the Interlocutory Application:

"That the instant Interlocutory Application is being filed on behalf of the petitioners for amendment of prayer inter alia that:

- (i) For a declaration that the press reports both dated 10th of March, 2016 for the meters of the petitioners are contrary to the provisions of the Bihar Electricity Supply Code, 2007 and the mandate of the Electricity Act, 2003.
- (ii) For a declaration that testing of meter, without testing its accuracy to record energy consumption has got no legal sanctity.
- (iii) For a declaration that communication of the said test report after 45 days, as stipulated by the testing laboratory itself, has taken away a substantive right of the petitioners and thus, the same cannot be acted upon.
- (iv) For a declaration that the test having been carried out in contravention to the provisions of the Bihar Electricity Supply Code, 2007 is no nest in the eyes of



law.

- (v) For a direction to the respondent authorities not to act upon the said test report till final adjudication of the present writ application.
- (vi) And further for quashing of letter dated 27.8.2016 followed by the punitive bills for an amount of Rs.5,97,553.00 & Rs.4,41,816.00 respectively and for any other relief or reliefs to which the petitioners may be entitled.”

This Court is of the view that prayer made in the interlocutory application is completely changing the nature of the writ petition itself. In such view of the matter, the objection raised by the Corporation is proper and legal.

In such view of the matter, interlocutory application is not allowed and counsel for the Corporation submits that petitioner has not born the testing charge as petitioners were carried to Bhopal on the cost of the Corporation and meter has been charged in their presence which has been disputed by the learned counsel for the petitioners.

Be that as it may, reliefs which have been sought by the petitioners in the writ petition does not survive. Admittedly all costs have been born by the Power Holding Corporation.



In such circumstances, this Court does not find any merit to interfere in the matter. Petitioners have also submitted that under protest they have already made payment. If they are not satisfied with the bill they will take action in accordance with law.

Accordingly this writ petition is dismissed with the aforesaid observation.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.3.2017
Transmission Date	NA

