

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4157 of 2015

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1. S. Rajendra Singh son of Late Charan Singh resident of Mohalla- Khagaul Road ,
Mithapur, P.S. Jakkanpur, District - Patna.

.... Petitioner/s

Versus

1. The South Bihar Power Distribution Company Ltd. , through its Chairman ,
Vidyut Bhawan , Bailey Road , Patna.
2. The General Manager-cum-Chief Engineer , PESU, Mangles Road , Patna.
3. The Electrical Executive Engineer , Kankarbagh Division, Patna.
4. The Assistant Electrical Engineer, Electric Supply Sub-Division, Kankarbagh
Division, Patna.
5. The Junior Electrical Engineer, Electric Supply Division , Kankarbagh , Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mrigank Mauli, Adv.

Mr. Vinay Mistry, Adv.

For the Respondent/s : Mr. Vinay Kirti Singh, Sr. Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 23-02-2017

Heard Mr. Vinay Mistry, learned counsel for the petitioner and
Mr. Vinay Kirty Singh learned Senior Counsel for the South Bihar
Power Distribution Company along with Assisting Counsel.

The writ petition has been filed praying for quashing of the
inspection report dated 20.1.2015 vide Annexure-3 whereby the
connected load was recorded as 75.38 HP in conflict with the
sanctioned load of 60 HP. The petitioner has also questioned the
energy bill raised on 13.3.2015 at Annexure-9 under Section 126 of
the Electricity Act, 2003 (hereinafter referred to as 'the Act'). The
petitioner has also mentioned at paragraph 15 that he has filed an



objection to the provisional bill raised under Section 126 of 'the Act'. A counter affidavit is filed in which it is stated with reference to Annexure-A to the counter affidavit that the objection has been finally disposed of and a final assessment order has been passed on 28.2.2015.

Mr. Mistry learned counsel for the petitioner has questioned the final assessment order on grounds that it has been passed without due opportunity of hearing to the petitioner as mandated under Section 126 of 'the Act'. It is in consideration of the objection so raised that the file of the proceedings was called for by this Court and has been produced by Mr. Singh learned Senior counsel and perusal thereof would confirm the objection raised by the petitioner for the noting therein do not confirm the presence of the petitioner.

Although it is canvassed by Mr. Singh learned Senior counsel for the respondents that the petitioner had appeared and the lapse is on the part of the Assessing Authority to not record his presence but then any proceeding has to be decided on the basis of materials on record and the records of the proceedings initiated under Section 126 of 'the Act' as produced by Mr. Singh does not confirm the presence of the petitioner. It is not in dispute that Section 126 of 'the Act' cast an obligation on the Assessing Authority to dispose of the objection of the petitioner raised against the provisional assessment by affording



an opportunity of hearing to him and which mandate does not appear to have been fulfilled in the present case.

In the circumstances discussed, the final assessment order dated 25.2.2015 brought on record vide Annexure-A to the counter affidavit of the respondents is quashed and set aside and the matter is remitted back to the Assessing Authority- cum-Electrical Executive Engineer, Kankarbagh Division, PSEU East Patna to consider the matter and dispose of the same afresh but in accordance with law and after opportunity of hearing to the petitioner. The petitioner would appear along with copy of this order before the Assessing Authority on or before 1.3.2017 at 11 A.M. and when the Assessing Authority would proceed to dispose of the matter in the manner stipulated.

The writ petition is allowed accordingly.

Let the records of the proceedings produced by Mr. Vinay Kirty Singh learned Senior Counsel be returned to his custody.

Bibhash/-

(Jyoti Saran, J)

AFR/NAFR	
CAV DATE	
Uploading Date	23.02.2017
Transmission Date	

