

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.405 of 2014
IN
Civil Writ Jurisdiction Case No. 1039 of 2011

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The South Bihar Power Distribution Company Ltd., Patna, One Of The Subsidiary Companies and successor body of Bihar State Electricity Board through Sachchidanand Lal Karn, son of Late Triveni Lal Karn, posted as Deputy Law Advisor, Bihar State Electricity Board, Patna

.... Appellant/s

Versus

1. The State Of Bihar Through Principal Secretary, Energy Department, Government Of Bihar, Patna
 2. The Additional District Magistrate, Patna Cum Appellate Authority (Earlier Electrical Inspector Bihar-Cum-Appellate Authority), Surpentine Road, Patna
 3. Sachita Nand Rastogi S/O Sri Daya Shankar Rastogi R/O Mohalla- Donbosco Road, Police Station- Digha, District- Patna
- Respondent/s
- =====

Appearance :

For the Appellant/s : Mr. Anand Kumar Ojha, Advocate
Mr. Ashok Karn, Advocate
For the State : Mr. Rakesh Ambastha, AC to AAG-7
For the Respondent No.3: Mr. Mani Bhushan Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 16-03-2017

Heard learned counsel for the appellant erstwhile State Electricity Board and counsel for the private respondent.

Perused the order dated 20th of March, 2012 passed in CWJC No. 1039 of 2011.

The appeal has been filed against the order of the learned Single Judge who had dismissed the writ application refusing to interfere with the order dated 29.5.2010 passed by the appellate authority under Section 127 of the Electricity Act, 2003. The finding given by the appellate authority that there was no legal premises for the assessment and lodging of an First Information Report with regard



to the allegation of theft. It is such finding which has compelled them to move the writ Court.

It is not that the learned Single Judge did not go through the materials, i.e., FIR, absence of inspection report and the reason which formed the basis for passing of the order by the appellate authority. If the foundational facts and evidence are missing then neither the appellate authority nor the learned Single Judge would be held to have committed error either in fact or law by interfering with the decision of the Electricity Board to proceed against the private respondent for so called theft of electricity.

The order of the learned Single Judge is a well considered order. Even this Court has gone through the FIR and the order of the appellate authority and comes to the same conclusions which have been reached by the appellate authority as well as learned Single Judge and therefore, the Court refuses to interfere with the order dated 20th of March, 2012.

The appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

S.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
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