

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2963 of 2017

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1. Ashok Kumar, S/o Sri Shesh Narayan Sharma, Resident of Mohalla- Maruti Nagar, Chiraiyantand, P.S.- Jakkanpur, District- Patna.

.... Petitioner/s

Versus

1. The Principal Secretary Department of Energy, Bihar, Patna.
2. The Chief Managing Director, Bihar State Power holding company VIDYUT BHAWAN Bailey Road, Patna.
3. The Chief Engineer Cum General Manager (PESU), Bihar, Patna.
4. The Executive Engineer, New Dakbunglow Division, Bandar Bagicha, Patna.
5. The Junior Engineer, L.I.C. Building, Exhibition Road Chauraha, Patna.
6. The House Controller-Cum Sub Divisional Magistrate, Sadar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Helal Ahmad
For the Power Company: Mr. A.K. Ojha,
Mr. A.K. Karna.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 03-05-2017

Heard learned counsel for the petitioner and learned counsel for the Bihar State Power Holding Company.

In the present case, a complaint has been made by the petitioner who is an Advocate that he is running his office at first floor Gupta Mansion Old Central Bank of India, New Dakbunglow Road, Patna. He wants electric connection. He made a complaint that he has dispute with the landlord and for that civil suit vide B.B.C. Case No.3 of 2017 before the House Control Patna sadar, Patna under Section 10 of the B.B.C. Act, 1982 has been filed which is still pending. He wants new and



separate power connection. He had gone to file an application for grant of power but the person who is sitting there has refused to entertain the application of the petitioner.

Learned counsel for the petitioner submits that if petitioner is ready to pay the electric bill he cannot be deprived of the power as in terms of Clause 4.1 of the Bihar Electricity Supply Code, 2007 which postulates the licensee will be obliged to give connection of power to the new owner or occupier of any premises located in his area of supply and even if the old owner or occupier is in arrear of electric dues the licensee authority will be liable to recover such amount under the provision of Bihar and Orissa Public Demands Recovery Act. It will be relevant to quote Clause 4.1. of the Bihar Electricity Supply Code, 2007 which runs as follows:

“4.1. The Licensee shall on an application by the owner or occupier of any premises, located in his area of supply, give supply of electricity to such premises within one month after receipt of completed application and requisite charges.

Provided where such supply requires extension of distribution mains, or commissioning of new sub-stations, the distribution Licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as specified by the Commission in clause 4.80 of the Code.



Provided also in case of application for supply from villager or hamlet or area wherein no provision for supply of electricity exist, the Commission shall extent the time period for provision of supply appropriately on a case to case basis:

Provided that

(i) If there are arrears of electricity dues against the owner or occupier or tenant of a premises as a consumer, new connection shall not be denied to subsequent owner, occupier or tenant, and the arrear of electricity dues on the premises shall be recovered from the defaulting consumer under the provisions of Bihar and Orissa Public Demand Recovery Act, 1914 or alternately the arrears may also be transferred to another running accounts of the defaulting consumer after adjustment of amount of security deposit and interest there on and giving fifteen days notice.”

In the present case there is no issue that owner of the premises is in arrear of the electric bill but as the petitioner is not carrying a good relationship, the landlord is not ready to give him a separate meter for supply of electricity which is required under Clause 4.13(A) which runs as follows:

“4.13(A) The consumer shall furnish along with the application form, attested true copies of documents (details at Annex 1 & Annex 2). The licensee may ask for the original documents from the consumer, if required, for verification.



(a1) Proof of ownership of the premises in the form of registered sale deed or partition deed or succession or heirship certificate or deed of last will,

OR

Proof of occupancy such as valid power of attorney or latest rent receipt of valid lease deed or rent agreement or copy of allotment order issued by the owner of the property,

Or

In case of supply for agriculture/irrigation pump set, the copy of Land Revenue receipt 'Khata nakal' giving the Revenue Plot No. 'Khasara/khata' number of the field within which the supply is required.

(a2) In case of tenant permission of landlord along with proof of ownership of the premises.

(b) Approval/permission of the local/statutory authority, if required under any law/statute.

(c) In case of a partnership firm, partnership deed, authorization in the name of the applicant for signing the requisition form and agreement.

(d) In case of a Public or Private Limited Company, Memorandum and Articles of Association and Certificate of incorporation together with an authorization in the name of the applicant for signing the requisition form and agreement. In case of application for power supply to stone crushers, stone polishing and hotmix plants, the following additional information shall also be furnished.

(e) Documentary evidence from the department



concerned to show that he will be able to take requisitioned quantum of power supply for at least two years, or as specified in the agreement.

(f) His permanent address. The consumer shall also intimate whether the service line and extensions, if any, shall be laid by the consumer or the licensee.”

Clause 4.13A itself shows that a person who wants a connection must furnish the proof of ownership of the premises such as valid power of attorney or latest rent receipt or valid lease deed or rent agreement or copy of the allotment order issued by the owner of the property should be attached with application. As in the present case petitioner himself in litigation with the owner itself shows that petitioner is in occupation of the premises and this Court also cannot overlook the provisions of Clause 4.13 (B) which has been inserted after the judgment of the Hon'ble Supreme Court by which even Panwala, shops, Jhughi Jhopri, slum settlers etc. even the encroachers of the Government land who are unable to furnish proof of ownership of premises shall be allowed to take electric connection.

In such view of the matter, this Court directs the respondent authority to accept the application of the petitioner and if the petitioner pays the proper fee the respondent authority is directed to give power connection within a period of 30 days



from the date of filing of the application. The respondent authority will be at liberty to fix pre-paid electric meter.

With the aforesaid observation and direction this writ petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.5.2017
Transmission Date	NA

