

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9917 of 2000

M/S J.M.D.Rolling Mill, A Unit of M/s J.M.D. Alloys Ltd., Deokuli, Bihta in the district of Patna through its Director Sri Sanjay Gupta

.... Petitioner/s

Versus

- 1.Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna through its Chairman
- 2. The General Manager cum Chief Engineer, Central Bihar Area Electricity Board, Serpentine Road, Patna
- 3. The Electrical Superintending Engineer, Patna Electrical Circle, Patna
- 4. The Electrical Executive Engineer (Commercial and Revenue), Patna Electrical Circle, Patna
- 5. D G M Cum Electrical Superintending Engineer, Central Electric Supply Area, Serpentine Road, Patna.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 11002 of 2000

M/S Hind Agricultural Farm & Cold Storage, A Partnership Firm, having its office and factory at Kishanganj, P.S. & District-Kishanganj, through its Partner Sri G.K. Agarwal.

.... Petitioner/s

Versus

- 1. Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna through its Chairman
- 2. The General Manager cum Chief Engineer, Koshi Area Electricity Board, Saharsa
- 3. The Electrical Superintending Engineer, Electrical Circle, Purnea
- 4. The Electrical Executive Engineer, Electric Supply Division, Forbisganj

..... Respondent/s

with

Civil Writ Jurisdiction Case No. 986 of 2001

M/S S.S.L.Steels Ltd., formerly known as M/s. Suprabhat Steels Ltd., a Company incorporated under the Companies Act, 1956, having its registered office at Duggal House, Bank Road, Patna, through its Director Shri B.K. Raha

.... Petitioner/s

Versus

- 1.Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna through its Chairman
- 2. The General Manager cum Chief Engineer, Central Bihar Area Electricity Board, Serpentine Road, Patna
- 3. The Electrical Superintending Engineer, Bhojpur Electrical Circle, Arrah
- 4. The Electrical Executive Engineer (Com.and Rev.), Bhojpur Electrical Circle,



Arrah

5. The Assistant Electrical Engineer (C & R), Bhojpur Electrical Circle, Arrah

6. The Assistant Electrical Engineer, Electric Supply Subdivision, BSEB, Dumraon, District-Bhojpur.

.... Respondent/s

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Appearance :

(In CWJC No.9917 of 2000)

For the Petitioner/s : None

For the BSEB : Mr. Vinay Kirti Singh, Sr. Advocate
Mr. Vijay Kumar Verma, Advocate
Mr. Akhileshwar Singh, Advocate

(In CWJC No.11002 of 2000)

For the Petitioner/s : None

For the BSEB : Mr. Vinay Kirti Singh, Sr. Advocate
Mr. Vijay Kumar Verma, Advocate
Mr. Akhileshwar Singh, Advocate

(In CWJC No.986 of 2001)

For the Petitioner/s : None

For the BSEB : Mr. Vinay Kirti Singh, Sr. Advocate
Mr. Vijay Kumar Verma, Advocate
Mr. Akhileshwar Singh, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

Date: 15-09-2017

No one appears for the petitioners.

2. Learned counsel appearing on behalf of the respondent-Bihar State Electricity Board submits that the present cases are guided by the decision rendered in CWJC No.5614 of 1999 and other analogous cases, which were disposed of by a Division Bench of this Court on 13.05.2016.

3. By the said judgment, the said matters have been remitted back to the concerned Chief Engineer to decide the case under Clause 13 of the H.T. Agreement. The operative portion of the



said judgment is quoted hereunder:

“**35.** Upon analysis of various decisions of this Court, as noted above, and the decision of Jharkhand High Court, in case of **Rishi Cement Company Limited & Ors.** (supra), with reference to the Boards’ resolution, dated 29.07.1994, we hold as follows:-

(i) In view of the Division Bench decision of this Court, in case of **M/S Suprabhat Steels Limited & Ors.** (supra), more particularly paragraph 40 thereof, as noticed above, remission, in Annual Minimum Guaranteed Charges, will have to be allowed to the consumers on the basis of inability of the Board to supply electrical energy and no other component can be introduced for calculation of such remission.

(ii) Clause 2 of the said notification, dated 29.07.1994, will have to be read inconsonance with paragraph 11 of the Division Bench decision of this Court in case of **M/s Hind Agriculture Farm & Anr.** (supra), and it is, accordingly, held that consumers shall be entitled to such remission, which would be available from the record maintained by the Board in respect of its (Board’s) inability to supply electrical energy and not inability of the petitioners to use the same. It is further directed that remission in Demand Charges shall be calculated on the basis of following formula:-

$$\frac{\text{Total KVA charged} \times \text{Total hours of non-supply}}{\text{Total hours of power to be supplied.}}$$

(iii) Clause 3 of the said notification, dated 29.07.1994, is struck down being in violation of Division Bench decision of this Court in case of **M/S Suprabhat Steels Limited & Ors.** (supra).

(iv) Rest of the provisions, under the said notification, dated 29.07.1994, cannot be said to be in violation of any decision of this Court or otherwise arbitrary.”

4. The said *ratio decidendi* shall also be applicable in the cases of the present petitioners.

5. As such, in accordance with the directions issued in



CWJC No.5614 of 1999(supra), the petitioners are granted liberty to approach the concerned authority and appropriate orders shall be passed in accordance with law.

6. In view of the fact that the remission, which has been made in the said cases, does not indicate the time-frame for a decision by the authority to which the present cases have been remitted, it is directed that the petitioners shall approach the authority concerned within a period of six weeks from the date of receipt/production of a copy of this order and the concerned authority shall give due consideration of the cases of the respective petitioners and decide the same within a period of three months thereafter.

7. With the aforesaid observations/directions, these writ applications stand disposed of. In the facts and circumstances, there shall be no order as to costs.

(Anjana Mishra, J)

PNM

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	NA
Transmission Date	18.09.2017

