

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1132 of 2016

In

Civil Writ Jurisdiction Case No.1546 of 2014

-
-
1. The Bihar State Power (Holding) Company Limited, Vidyut Bhawan, Bailey Road, Patna, Through Its Chairman-Cum-Managing Director
 2. The North Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna, Through Its Director
 3. The Chief Engineer (Commercial), North Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna
 4. The Electrical Executive Engineer, Electric Supply Division, Hajipur, District Vaishali

... ... Appellant/s

Versus

M/S Sri Ram Industries, Hajipur Industrial Area, Hajipur, District Vaishali,
Through Its Proprietor , Nand Kishore Singh Son Of Shri Yadu Nandan Singh
Resident Of Hajipur Industrial Area, P.S. Industrial Area Hajipur, District -
Vaishali

... ... Respondent/s

Appearance :

For the Appellant/s : Mr. Ratan Prasad Sinha, Advocate
For the Respondent/s : Mr. Suraj Samdarshi, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 11-10-2017

Seeking exception to an order dated 4.11.2015 passed
by the learned Writ Court in C.W.J.C. No.1546 of 2014, this
appeal has been filed under Clause 10 of the Letters Patent.

In the matter of releasing payment of electricity duty
under Section 126 of the Electricity Act, 2003 to the extent of



Rs.1,66,832/-, the learned Writ Court having allowed the writ petition of the consumer, respondent No.9 herein, this appeal has been filed by the Bihar State Power Holding Company inter alia contending that orders passed for assessment by the Assessing Officer and the Appellate Authority has unnecessarily been interfered with by the learned Writ Court.

We find that the petitioner was a low tension industrial category consumer having a sanctioned load of 15 H.P. When inspection was conducted by the officials of the Company on 7.1.2013, the load was found to be within the prescribed sanctioned load limit of 15 H.P. The load, in fact, was found to be 14.89 H.P. at the time of inspection. However, as the electronic meter was recording a maximum demand of 36.88 H.P., the impugned action was taken even though no irregularity, irregularity or breach was found in the premises of the petitioner and no theft of electricity was also detected.

Taking note of these factors, after considering the law laid down by the Hon'ble Supreme Court in the case of Executive Engineer, Southern Electricity Supply Company of Orissa Ltd. & Ors. Vs. Sri Seeta Ram Rice Mill, (2012) 2 SCC 108, learned Writ Court has found that the provisions of Section 126 of the Act cannot be resorted to mechanically and penal action cannot be



taken when there is no illegality found in the meter. The learned Writ Court recorded in detail that at the time of inspection of the premises when the connected load conforms with the sanctioned load and there is nothing to show unauthorized use of electricity, impugned action is unsustainable.

In our considered view, the findings and the reasons recorded by the learned Writ Court cannot be termed as illegal, erroneous or perverse, warranting interference in the matter.

Accordingly, we dismiss this appeal.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.Jha/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	28.10.2017
Transmission Date	

