

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6712 of 2016

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1. M/s Royal Enterprises, a proprietorship firm, having its Unit at B-20(P), Donar Industrial Area, Darbhanga, through its Proprietor, Jiwachh Prasad Choudhary son of Shri Ganesh Choudhary resident of Kavirchak, P.O. Kavirchak, P.S. Sadar, District Darbhanga.

.... Petitioner/s

Versus

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 Managing Director.
3. The Electrical Superintending Engineer, H.T. Cell, North Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna.
4. The Electrical Executive Engineer, Electric Supply Division, Darbhanga.
5. The Assistant Electrical Engineer, Electric Supply Sub-Division, Laheriasarai, Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suraj Samdarshi

For the Respondent/s : Mr. Ratan Prasad Sinha

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 08-03-2017

Heard learned counsel for the petitioner and learned counsel for the State.

In the present writ petition, the dispute is in two areas, one is with respect to applicability of LTS-I or LTS-II. As per the claim of the petitioner, he falls in the category of LTS-I which provides supply of electricity upto 25 HP will be covered under LTS-I whereas LTS-II category applies to those consumer whose connection is more than 25 HP. There is a marginal difference in tariff with respect to LTS-I and LTS-II



as consumers of LTS-I are required to pay fixed charge at the rate of 70/- rupees per HP with minimum guarantee of 70 units whereas consumers under LTS-II are required to pay the fixed charge of Rs.100 per HP and 100 unit on minimum guarantee.

Learned counsel for the petitioner submits that in terms of the connected load the petitioner would fall under LTS-I category, not under LTS-II category and another area of dispute is that the installation of motor having 6 KW or the motor was 16.1 KW. As per claim of the petitioner he has installed the motor of 6 KW which is corroborated from the report of Joint Inspecting Team under Section 126 of the Electricity Act, 2003 made inspection on 13.3.2015 where it was found that installed motor was 6.2 KW and not of 16.1. KW. The Executive Engineer vide letter dated 30.6.2015 has addressed a letter to the petitioner where it has been mentioned that there is provisional assessment of Rs.1,71,324/- and if he wants to make any objection he can file the same. Counsel for the petitioner submits that on receipt of the same petitioner has filed objection on 20.7.2015 but the assessing authority antedated his final order of assessment dated 10.7.2015 where it has been mentioned that no objection has been filed by the petitioner.



The conflict in the present case is that the Executive Engineer has recorded that no objection was filed by the petitioner but the objection which has been attached with the present writ petition, indicates that the objection of the petitioner was received in the office of Executive Engineer on 20.7.2015, made an allegation of antedating the order.

Be that as it may, this Court does not like to enter into the disputed question of fact with respect to receipt of objection or antedating of the order instead of deciding the issue, the Executive Engineer, Electric Supply Division, Darbhanga is directed to treat the application which has addressed to him dated 20.7.2015 as an objection of petitioner would consider and decide the case of the petitioner on its own merit.

In such view of the matter, the order dated 10.7.2015 is set aside and the matter is remanded back to the Executive Engineer who will consider the objection of the petitioner and take a decision. The Executive Engineer would decide both the issues with respect to, which category, the case of the petitioner is covered, i.e. either LTS-I or LTS-II in terms of the tariff and would also decide as to whether he has installed the motor of 16 KW or 6.2 KW of motor, after taking into account the facts and



circumstances finally decide the assessment of the electric bill, within six weeks from the date of receipt/production of a copy of this order giving opportunity of hearing to the petitioner. If the Executive Engineer does not find favour he will pass a reasoned order in accordance with law

Accordingly this writ petition is allowed to the aforesaid extent.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.3.2017
Transmission Date	

