

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.23493 of 2012

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1. M/S Ganapati Electricals Having Its Office At Mehasaul Chowk, Dumra Road,
P.S. And District Sitamarhi Through Its Proprietor, Ramesh Prasad Singh, S/O
Late Gayanand Singh

.... Petitioner/s

Versus

1. The Bihar State Electricity Board Vidhut Bhawan, Bailey Road, Patna, Through
Its Principal Secretary
2. Electrical Superintending Engineer Muzaffarpur Region, Aghoriya Chowk (Near
R.D.S. College), Muzaffarpur
3. Executive Engineer Electrical Division, Sitamarhi
4. Assistant Engineer Electrical Sub Division, Bairganja, District- Sitamarhi
5. The State Of Bihar Through The Secretary Health Department, Bihar, Patna
6. Chief Medical Officer-Cum-Civil Surgeon, Sitamarhi
7. District Magistrate, Sitamarhi-Cum-Chairman District Health Committee,
Sitamarhi
8. Incharge, Primary Health Centre Majorganj, District - Sitamarhi
9. Incharge, Medical Officer Referral Hospital, Majorganj, District- Sitamarhi

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 13-01-2017

Heard the parties.

In the present writ petition, petitioner has made a prayer to
declare the deduction of Rs.2,20,000/- on account of electric
charge to be illegal and not sustainable and amount should be
returned to him.

In the present case short question has been raised that
petitioner establishment has received a grant for supply of
electricity to Primary Health Centre and Referral Hospital,



Majorganj. In pursuance thereof the petitioner has supplied power to the Referral Hospital but when the matter came for payment the Civil Surgeon had deducted Rs.2,20,000/- on the ground that Electricity Board has placed demand of the electricity of Rs.2,20,000/-.

The short fact is that the Chief Medical Officer-cum-Civil Surgeon, Sitamarhi and District Magistrate, Sitamarhi have decided to outsource the service for Primary Health Centre and Referral Hospital, Majorganj, for that tender was published inviting application from suitable persons. In pursuance thereof petitioner and others have submitted the tender. Ultimately the tender of the petitioner was accepted, accordingly agreement was executed and he started supplying the power to Referral Hospital. He continued to do the same for the period he was assigned the job. In pursuance thereof he has placed the bill for supplying the electricity to him but after deducting the aforesaid amount the same has been paid. In the petition it has been mentioned that no electric connection was given by the Electricity Board to the Primary Health Centre as well as Referral Hospital, Majorganj so the question of supplying the electric energy by the Electricity Board does not arise. As there was no electric connection the petitioner all through supplied the power through electric



generator. When the demand for electric bill from Electricity Board came to the In-charge Primary Health Centre and In-charge Medical Officer of Referral Hospital, Majorganj replied letter dated 6.2.2008 and 9.3.2011 informing him that there is no electric connection of the Electricity Board and the power has been outsourced and getting the same through private person and mentioned the name of the present petitioner.

Again vide letter dated 22.3.2011 and 23.3.2001 In-charge Primary Health Centre and In-charge Medical Officer, Referral Hospital, Majorganj agitated the same plea as having no electric connection, no meter and no power supply. Repeatedly this plea has been reiterated by different letters dated 6.7.2011, 7.10.2011, 24.12.2011.

In such view of the matter, petitioner has submitted that as there was no power supply there was no electric connection the action of the Civil Surgeon in deducting the aforesaid amount is completely based on no material and per se illegal. When In-charge Medical Officer of Referral Hospital, Majorganj and Primary Health Centre have made positive statement that no electric power of Electricity Board has been consumed but the supply of power was outsourced to the present petitioner through generator. In such circumstances the clause mentioned in the



agreement that in the event of any demand from Electricity Board that will be compensated by the present petitioner has no meaning at all.

A counter affidavit has been filed by the State. In the counter affidavit the stand of the petitioner has been vetted inasmuch as it has been specifically stated that there was no electric meter, there was no power supply but the power was supplied by the present petitioner but in the counter affidavit of the Electricity Board they have justified the demand of the bill and has taken a plea that Electricity Board all through provided the power and in pursuance thereof the Board has placed the bill and it is the State who has to pay the same amount.

Learned counsel for the Electricity Board has submitted that the State has neither paid the amount as claimed by the Board nor money has been released in favour of the present petitioner.

In view of the aforesaid fact the dispute relates between the State and Electricity Board. The State has all through taken a plea that there was no meter, there was no power supply and disputed demand of bill by the Electricity Board and affirmed the statement of the present petitioner.

It is very unfortunate that petitioner has become sandwich



on account of dispute between the State and Electricity Board. This Court is not giving any opinion that Electricity Board has really supplied the power that is question of fact and the same will be settled by the State and Electricity Board and the State Authorities on mutual discussion.

In such circumstances, this Court is of the view that let District Magistrate, Sitamarhi and Civil Surgeon, Sitamarhi release the amount of Rs.2,20,000/- to the petitioner in the event if the State will be obliged to pay the same in that circumstance the State will be at liberty to realize the said amount from the present petitioner.

In such view of the matter, this writ petition is allowed to the aforesaid extent.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.1.2017
Transmission Date	NA

