

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20682 of 2014

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Shikha Breeding Forms & Hatchery Prop. Sanjay Kumar, S/o- Lakshman Prasad Sah, resident of A-30, donar Industrial Area, donar, P.S. Sadar, District Darbhanga

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Energy Department, Bihar, Patna
2. Bihar State Electricity Board, Patna through Chairman, Vidyut Bhawan, Patna
3. The Managing Director, North Bihar Power Distribution Company Ltd. H.T. Cell Vidyut Bhawan, Patna
4. The Special Works Officer (Revenue) North Bihar Power Distribution Company Ltd. Vidyut Bhawan, Patna
5. Dy. General Manager (Revenue) North Bihar Power Distribution Company Ltd. Patna
6. The Superintendent Engineer, North Bihar Power Distribution Company Ltd. District Darbhanga
7. The Executive Engineer (HT) North Bihar Power Distribution Company Ltd. District Darbhanga
8. The Assistant Electric Engineer (HT) North Bihar Power Distribution Company Ltd. District Darbhanga
9. The Executive Engineer (HT Cell) North Bihar Power Distribution Company Ltd. Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Krishna Mohan Mishra, Adv. Mr. Madan Mishra, Adv.
For the State	:	Mr. Sarvesh Kumar Singh, AAG 13 Mrs. Sunita Kumari, AC to AAG 13
For the Electricity Board	:	Mr. Vinay Kriti Singh, Sr. Adv. Mr. Akhileshwar Singh, Adv. Mr. Vijay Kumar Verma, Adv.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

7 16-10-2017 Heard learned counsel for the petitioner and learned Senior counsel appearing on behalf of the North Bihar Power Distribution Company Ltd.

The present writ application is filed for quashing the



notice issued by the respondent under Section 56 of the Electricity Act whereby the petitioner has been directed to pay Rs. 4,65,462.00/-.

Learned counsel for the petitioner submits that the petitioner's Meter went non-functional in two phases in the year, 2015 itself which was noted vide the report of the concerned Inspecting Authority on 08.04.2015. The two other units which had been found non-functioned were directed to continue running by bypassing it from the main meter. Thus, during the interregnum, when the two phases were non-functional, the petitioner continued to avail the electricity. Subsequently, on 16.04.2015, the said fault was rectified with a new replacement meter which was installed in the premises of the petitioner's firm and in the said installation/replacement report the Multiflying Factor (MF) has been indicated as one (1). Thereafter, in the year, 2017, the petitioner's meter was disconnected on account of non-payment of dues which necessitated the petitioner to come to this Court and by filing a interlocutory application. This Court directed restoration of the electricity connection subject to payment of an amount of 25 percent of the bill as raised by the Company. After this, the petitioner's electricity energy was restored.



Thereafter, the parties have exchanged affidavits in which it has been contended by the North Bihar Power Distribution Company Ltd. that the present petitioner is liable to pay the dues as calculated and raised by the company as due to inadvertence and non-communication of the replacement of the meter, the MT unit of the petitioner was charged only at 0.4 which is multiplying factor (MF) and thus, the bills so raised at the moment are fully fair and justified. The petitioner is also liable to pay the current charges failing which the distribution company shall have no option but to disconnect the line of the petitioner.

Learned Senior Counsel appearing on behalf of the Electricity Board presently South Bihar Power Distribution Company submits that while replacing the meter on 16.04.2017, a copy of the same had been served on the representative of the petitioner which has been squarely denied by him. Thus, he submits that the bills are fully lawful and valid and cannot be contested by the petitioner and he is liable to pay the same.

Learned counsel appearing on behalf of the petitioner, however, seriously controverts the issue and submits that he cannot be saddled with the bills at an enhanced rate without any notice to him and the action taken against him was thus wholly unlawful and arbitrary and fit to be set aside. He



further submits that the replacement was effected and all these years he was being charged at 0.4 (MF) and not 1(one) which is sought to be claimed at the present moment. He, however, refers to the Rules of HT Supply, particularly Rule 1.1., according to which the billing demand shall be the maximum demand recorded during the month or 85 percent of the Contract demand whichever is higher. He further submits that as per Sub-Rule (iv), if any month the recorded maximum demand exceeds 110 percent of contract demand, the portion of the demand in excess of the contract demand will be billed at twice the normal charges. He, thus, submits that there is no provision in the tariff rates terms for fixation of Multiflying Factor (MF). In support of his contention, learned counsel for the petitioner has also referred to a judgement reported in 1999(1) PLJR Page 466 wherein it has been stated that the Boards official are empowered to inspect the consumer's premises without advance notice in order to find out/detect the use of unauthorized load and other irregularities in consumption of electricity. The relevant portion is quoted hereunder:-

“Indian Electricity Act, 1910 – Section 26(6) read with General condition and Scale of Miscellaneous Charges for supply of Electrical Energy - the Boards official are empowered to inspect the consumer's premises without advance notice in order to find out/detect the use of unauthorized load and other irregularities in consumption of electricity – the inspection must be made in the presence of the consumer or his representative – if they are either not available or are



not willing to co-operate it will be open to the Board to carry on the inspection in presence of some independent persons other than the employees of the Board – in case the consumer is found using the electricity in excess of the contracted load and/or is guilty of other irregularities/illegalities, he must be supplied with the inspection report and given a show cause notice before passing any order against him imposing any additional liability in the form of electricity charges”.

Be that as it may, this Court is not inclined to go into issues of facts as to whether the inspection was held in his presence or whether any communication was made between them. The Rule as well as the judgment can well be placed before the authorities, who shall weigh the present facts and circumstances of the case and pass appropriate and reasoned order and, if found to be contrary to the Rules, the same may be rectified.

Accordingly let the petitioner approach the Executive Engineer (HT), North Bihar Power Distribution Company Ltd. Patna, who is directed to be impleaded as Respondent No. 9 during the course of the day within a period of three weeks from the receipt/production of a copy of this order. In case, the petitioner does appear before the Respondent no. 9 within the aforesaid three weeks, the respondent no. 9 shall enquire into the matter and after considering all relevant rules and regulations including any citation placed by the petitioner shall pass a reasoned order within a period of six weeks thereafter.



With the aforesaid directions, the writ application
stands disposed of.

(Anjana Mishra, J)

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