

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1125 of 2016

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1. The Bihar State Electricity Board, (Now restructured as South Bihar Power Distribution Company Ltd) through Managing Director, Vidyut Bhawan, Bailey Road, Patna
 2. The Electrical Superintending Engineer Electric Supply Circle, BSEB, Gaya, District - Gaya
 3. The Electrical Executive Engineer (Commerce & Revenue) Electric Supply Division, Gaya, District - Gaya
 4. The Assistant Electrical Engineer, Electric Supply Division, Bodh Gaya (Gramin), District Gaya

.... Appellant/s

Versus

M/s Lotus Nikko Hotel, through its Manager/General Manager Mr. Sachida Nand Dixit S/o Sri Gorakh Dixit At Bodh Gaya, near Archeological Museum, Bodh Gaya, District Gaya

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Prakash Kumar, Advocate

For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 30-06-2017

Delay of 227 days in filing of this appeal is condoned.

I.A. No. 6360 of 2016 stands allowed and disposed of.

2. Seeking exception to an order dated 26.08.2015 passed by the learned Writ Court in C.W.J.C. No. 6047 of 2013, this appeal has been filed by the Electricity Board under Clause 10 of the Letters Patent.

3. The respondent consumer filed the writ petition in question seeking quashment of an order passed on 13.02.2013 by the



Superintending Engineer, Electric Supply Circle, Gaya, whereby a revised bill was issued to the tune of Rs. 25,45,370/- for the period April, 2010 to September, 2011.

4. After evaluating various aspects of the matter and considering the judgment rendered earlier in the case of **M/s Indo Hokke Hotels Ltd. Vs. Bihar State Electricity Board & Ors.-2013 (2) PLJR 213**, the bill in question has been quashed on account of the fact that it was the Board which replaced the transformer with a higher capacity installed in the premises and, therefore, it was the mistake of the Board and because of this mistake the financial burden cannot be shifted on the consumer. The Court also found that the Board had entered into an agreement with the respondent being oblivious of the fact that it had installed a transformer of 200 KVA in the premises and as the said transformer was not installed by the respondent, it was held by the learned Writ Court that the Board, being custodian of the property, should have been more conscious and should have either replaced the transformer or should have passed an order to reduce the capacity of the transformer so as to match the contract demand of 113 KVA.

5. Having installed the transformer of a higher capacity and having not noticed the consumer with regard to uses of the contract demand, it was found that the Board cannot take punitive



action and for doing so, reliance has been placed on the judgment rendered in the case of **M/s Indo Hokke Hotels Ltd.** (supra).

6. Finding the grounds and the reasons that weighed with the Board to be in accordance with law, no case is made out for making any indulgence into the matter. The Letters Patent Appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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