

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16389 of 2015

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M/s Shyama Roto Moulders through its Partner Mahesh Kumar Son of Late Gopal Prasad, B-13, Donar Industrial Area, P.S.- Donar, District- Darbhanga.

.... Petitioner/s

Versus

1. The Bihar State Power (Holding) Company Ltd. through its Chairman-cum-Managing Director having its office at Vidyut Bhawan, Bailey Road, Patna.
2. The North Bihar Power Distribution Company Ltd. through its Managing Director having its office at Vidyut Bhawan, Bailey Raod, Patna.
3. The Chief Engineer (Commercial), North Bihar Power Distribution Company Ltd. having its office at Vidyut Bhawan, Bailey Raod, Patna.
4. The Executive Electrical Engineer, Electrict Supply Division Darbhanga (Urban), District- Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Suraj Samdarshi, Adv. Mr. Ravindra Kr. Singh, Adv. Mr. Sanjiv Kumar, Adv.
For the Respondent/s	:	Mr. Vinay Kirti Singh, Sr. Adv. Mr. Akhileshwar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 01-05-2017

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

In this case, the petitioner has raised two grievances, the first grievance relates to raising a bill of Rs.9,45,155/- for LTIS-II connection of 55 HP whereas the sanctioned load was 15 HP (LTIS-1) and another grievance has been raised that the petitioner is governed under the Industrial Policy of 2011 and, as such, he is not liable to pay the Monthly Minimum Guarantee Charge.

The petitioner has started the industry in January, 2013 for production of Plastic Water Container and Tank entered into the agreement for supply of electric power in the connected load of 15 HP



and, accordingly, as per petitioner, he was making payment of Bill. A raid was conducted and it was found that instead of running the 15 HP Motor, he was running the motor of 45 HP and found total load was 55 HP instead of 15 HP and, accordingly, the bill was prepared for unauthorized use of power.

The grievance of the petitioner is that they have not followed the procedure prescribed under Section 126 of the Electricity Act, 2003 before issuance of the final bill, was required to first serve the provisional bill upon the petitioner and seek objection, if any, whereupon after considering the objection, he should have issued the final bill. In support of the submission, learned counsel for the petitioner has placed reliance in the case of *Chairman, Bihar State Electricity Board & Ors. Vs. Snehlata Gupta* reported in 2015 (4) PLJR 79 wherein a distinction has been made between two type of cases, the cases falling under Section 126 of the Electricity Act, 2003 vis-à-vis the cases falling under Section 135 of the of the Electricity Act, 2003. In cases which fall under Section 126 of the 2003 Act, the provisional assessment has to be made which has to be served upon the person concerned who would file objection and the same has to be dealt with in accordance with law and make a final bill but, this procedure has not been followed by the Distribution Company.

In that view of the matter, the final bill, which has been raised and served upon the petitioner, is not sustainable in law but, it



appears from the record that the petitioner has already made payment of the entire amount.

Let the Executive Electrical Engineer, Electric Supply Division, Darbhanga (Urban), Darbhanga is directed to serve provisional bail to the petitioner and the petitioner will be at liberty to file objection and, thereafter, the authority will take a final decision within a period of three weeks after filing of the objection. If it is found that some excess payment has been made, the authority will be obliged to return the amount to the person who has deposited the amount of electric Bill.

With regard to entitlement under the Bihar Industrial Incentive Policy, 2011, the petitioner will be at liberty to take steps in accordance with law.

With the aforementioned observation and direction, this application is disposed of.

The original record of the Power Distribution Company is returned.

Rishi/-

(Shivaji Pandey, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.05.2017
Transmission Date	NA

