

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14940 of 2015

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Girdhari Sah, S/o Late Prasadi Sah, Tulsi Mishra Gali, Champa Nagar P.O. - Nath
Nagar, P.S. - Nath Nagar, District - Bhagalpur.

.... Petitioner

Versus

1. The General Manager, Bihar State Electricity Board, Patna.
2. The Managing Director, South Bihar Electric Power Supply Division, Patna.
3. The Chief Engineer, Power Supply Division, Bhagalpur.
4. The Superintending Engineer, Power Supply Division, Bhagalpur.
5. The Executive Engineer, Power Supply Division.
6. The Electricity Distribution Company Private Limited, Bhagalpur.
7. The Junior Engineer, Bihar State Electricity Board, Bhagalpur.
8. The District Certificate Officer, Bhagalpur.

.... Respondents

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Appearance:

For the Petitioner/s : Mr. Anil Kumar Sinha, Adv.
Mr. Rajendra Kumar Jain, Adv.
For the State : Mrs. Abhayanjali, A.C. to G.A.12
For the Electricity Board: Mr. Prakash Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 23-02-2017

Heard learned counsel for the petitioner, learned
counsel for the State and learned counsel for the Electricity
Distribution Company Private Limited, Bhagalpur.

2. In the present case, the petitioner is challenging the
electric bill which has been raised of Rs.9,60,021/- and also
challenging the proceeding which is pending before the District
Certificate Officer, Bhagalpur with respect to the electricity dues in



connection with Consumer No.6888/47/LTIS/47039/9/2/39455.

3. The petitioner is claiming, he was a consumer of the Bihar State Electricity Board. He always deposited the bill without fail and cleared all the bills till February, 1998, thereafter he got the power disconnected, never used electric power, no longer a consumer and as such the question of raising bill against the petitioner does not arise. But, all of a sudden he has received a notice from the District Certificate Officer, Bhagalpur, asking him to deposit the aforesaid amount or face the proceeding before him. The case was registered as Case No.23 of 2014-15. In pursuance thereof, the petitioner has filed objections before the District Certificate Officer, Bhagalpur.

4. Primarily, learned counsel for the petitioner submits that when the petitioner has not consumed any power, the question of raising bill does not arise. He further submits that the manner in which the bill has been prepared itself shows that there is inherent defect in raising the electricity bill against the petitioner. It appears that on a single day sitting in the office the bill has been prepared without examining and reading electric meter including the attending facts and circumstances.



5. Learned counsel for the petitioner further submits that in terms of Section 56 of the Electricity Act, 2003 if the due amount is beyond two years it is not recoverable as arrears of electric bill. It has also been submitted that a sum of amount as electric bill is not standing in the ledger of the company as arrear of electric bill and as such the whole proceeding is *non est*.

6. It will be relevant to quote section 56 of the Electricity Act, 2003, which reads as under:-

“56. Disconnection of supply in default of payment.- (1)

Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, after giving not less than fifteen clear days' notice in writing, to such person and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer:

Provided that the supply of electricity shall not be cut off



if such person deposits, under protest,-

(a) an amount equal to the sum claimed from him, or

(b) the electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months,

Whichever is less, pending disposal of any dispute between him and the licensee.

(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.”

7. Learned counsel for the Electricity company submits that as the proceeding is pending before the District Certificate Officer, this Court may give direction to the Certificate Officer to examine the case and take decision in accordance with law inasmuch as Section 42 (5) of the Electricity Act, 2003 also provides that in case any consumer is aggrieved by the bill served upon him, he can raise the grievance before the Consumer Grievance Redressal Forum.



8. It will be relevant to quote Sub sections- 5, 6 and 7 of Section 42 of the Electricity Act, 2003, which read as under:-

“(5) Every distribution licensee shall, within six months from the appointed date or date of grant of licence, whichever is earlier, establish a forum for redressal of grievances of the consumers in accordance with the guidelines as may be specified by the State Commission.

(6) Any consumer, who is aggrieved by non-redressal of his grievances under sub-sections (5), may make a representation for the redressal of his grievance to an authority to be known as Ombudsman to be appointed or designated by the State Commission.

(7) The Ombudsman shall settle the grievance of the consumer within such time and in such manner as may be specified by the State Commission.”

9. It appears that the manner in which the bill has been prepared looks inherently doubtful. As the forum has been created under the Electricity Act, 2003, this Court directs the petitioner to file an application before the Consumer Grievance Redressal Forum. If such an application is filed, the Consumer Grievance Redressal Forum, will call for the records and examine the matter and take decision in accordance with law. If the petitioner would feel aggrieve by the decision of the Consumer Grievance Redressal Forum, then he will have a liberty to challenge the same before the



appropriate Forum.

10. If the Consumer Grievance Redressal Forum decides the case in favour of the petitioner, then there will be reconciliation of the amount, but if the Forum decides the matter against the petitioner, then the petitioner will be obliged to deposit the amount in terms of the Electricity Act, 2003, failing which, the Company will have a liberty to take action in accordance with law. The entire exercise will be completed by the Consumer Grievance Redressal Forum within six months from the date of filing of application by the petitioner.

11. As this Court is relegating the matter before the Consumer Grievance Redressal Forum, the proceeding before the District Certificate Officer, Bhagalpur shall keep in abeyance till the disposal of the matter.

12. With the aforesaid observations and directions, this writ application is disposed of.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	28.02.2017
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