

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.541 of 2018

=====

Paras Kumar Sinha, S/o Late Lal Mohan Prasad, Resident of Village + Post-
Mamrejpur, P.S.- Desari, District- Vaishali.

.... Petitioner

Versus

1. The State of Bihar through the Collector, Vaishali at Hajipur.
2. The Additional Collector, Vaishali at Hajipur.
3. The Certificate Officer, Electricity, Hajipur.
4. The Executive Engineer (Supply), Electricity Supply Division, Hajipur, Vaishali.
5. The Assistant Electrical Engineer, Electric Supply, Sub Division, Mahnar (Vaishali).

.... Respondents

=====

Appearance :

For the Petitioner : Mr. Pradhan Murli Manohar Prasad, Advocate
For the State : Mr. Kinkar Kumar- SC9
For Power Company : Mr. Anand Kr. Ojha,
Mr. Ashok Kr. Karna, Advocates

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 12-03-2018

As prayed, learned counsel for the petitioner is permitted to make necessary correction of the amount sought to be recovered and inadvertently it has been stated as “the amount of Rs. 6,63,721” in place of the correct amount of Rs. 66,371/- in paragraph 1 as well as in the synopsis of the writ petition in course of the day.

2. Heard learned counsel for the petitioner as well as learned counsel for the respondents.

3. The present writ petition has been filed for quashing the notice dated 31.01.2011 under section 7 of the Bihar and Orissa Public Demand Recovery Act, 1914 in connection with Certificate Case No. 7/2010-11 and for connected reliefs.



4. Learned counsel for the petitioner submits that even though the dues of the respondent-Power Company have duly been paid by the petitioner's father in 1997-98 after disconnection, and there are no arrears remaining, the instant proceeding has been initiated for recovery of the alleged dues of Rs. 66,372/- which is arbitrary and illegal.

5. A counter affidavit has been filed on behalf of the respondent-Power Company, *inter alia*, disputing the stand of the petitioner with regard to disconnection. It is claimed that the petitioner's electric connection had been disconnected on 13.01.2008 on account of non-payment of arrears of Rs. 48,191.14 and in respect of which the certificate proceeding has been initiated. It is further stated that various payments made by the petitioner during the years 1997-98 aggregating to Rs. 4,400/- after disconnection of the electric supply have already been taken into account and as such the petitioner is liable to make payment in question. Reference is made to the decision of a learned Single Judge of this Court dated 04.02.2009 passed in CWJC No. 18528 of 2008 (*M/s Bikaner Plasto Flex Pvt. Ltd Vs. The State of Bihar & Others*) as well as the order dated 21.04.2009 passed in LPA No. 401 of 2009 (*Bihar State Electricity Board Vs. M/s Bikaner Plato Flex Pvt. Ltd. & Others*) by which the appeal filed by the Power Company was dismissed.

6. Having heard learned counsel for the parties and on



Careful consideration of the materials available on record, this Court is not inclined to interfere in the matter which also involves disputed questions of fact. There is adequate provision for redressal of the grievances of the petitioner in this regard in terms of the Electricity Act, 2003 itself by way of an application before the forum constituted under Section 42(5) of the said Act and further remedy is provided under Section 42(6) of the Act by approaching the Ombudsman.

7. In the above view of the matter, let the petitioner approach the forum with an application under Section 42 (5) of the said Electricity Act for appropriate adjudication by it expeditiously. The certificate proceeding would continue after disposal of the petitioner’s application, if filed within a period of three weeks hereof. It is made clear that the petitioner will also be at liberty to avail of any other remedy as may be available to him in accordance with law.

8. The writ petition stands disposed of.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	13.03.2018
Transmission Date	N.A.

