

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.275 of 1996

M/S R.B. Traders, Railway Stone Quarry, Amratalab, Karbandia, P.S. Sasaram, Town Sasaram, District Rohtas, through its Managing Partner Lalit Bhutani, son of Sri Hukumchand Bhutani, R/o Telephone Exchange Road, P.S. Bank More, Town & District Dhanbad

..... Petitioner

Versus

- 1. Bihar State Electricity Board, through its Chairman, Bailey Road, P.S. Kotwali, Town and District Patna
- 2. The General Manager-cum-Chief Engineer, Area Electricity Board, 8, Daroga Pd. Rai Path, P.S. Sachivalaya, Town and District Patna

..... Respondents

With

Civil Writ Jurisdiction Case No. 455 of 1996

M/S Bihar Co-operative Weavers Spinning Mills, P.S. Mokamah, Town Mokamah, District Patna appearing through its General Manager Ashis Kumar Majumdar son of Late N.M. Majumdar, resident of BMC Spinning Mills Complex, P.S. Mokamah, Town Mokamah, District Patna

..... Petitioner

Versus

- 1. The Bihar State Electricity Board, through its Chairman, Bailey Road, P.S. Kotwali, Town and District Patna
- 2. The General Manager-cum-Chief Engineer, Central Bihar Area Electricity Board, 8, Daroga Pd. Rai Path, P.S. Sachivalaya, Town and District Patna

..... Respondents

With

Civil Writ Jurisdiction Case No. 8209 of 1996

M/S Maruti Iron & Steel Ltd., A-3 Industrial Area, Bela, P.S. Muzaffarpur Town and District Muzaffarpur, through its Director, G.P. Tulsiyan, son of Sri Giridhari lal Tulsiyan, resident of Sikandarpur, P.S. Muzaffarpur Town and District Muzaffarpur

..... Petitioner

Versus

- 1. The Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, P.S. Kotwali, Town and District Patna through its Chairman.
- 2. The General Manager-cum-Chief Engineer, Tirhut Area Electricity Board, Town and District Muzaffarpur

..... Respondents

With

Civil Writ Jurisdiction Case No. 7118 of 1997

M/S J M D Alloys Limited, a Company incorporated under the Indian



Companies Act, 1956 having its Registered Office at 2, Surya Vihar Apartment, Exhibition Road, Patna – 800 001 and its Factory at Deokuli (N.H. Bihita, Patna) through its Director Sri Dashrath Kumar Gupta son of late Kripa Ram resident of 208, Kailash Apartment, Kankarbagh Road, Patna
..... Petitioner

Versus

- 1. Bihar State Electricity Board, a body constituted under the Indian Electricity Supply Act, 1948 through its Chairman.
- 2. The General Manager-cum-Chief Engineer, Central Bihar Area Electricity Board, Patna.
- 3. The Superintending Engineer, Bihar State Electricity Board, Patna.
- 4. The Electrical Executive Engineer, (Commerce & Rev.), Patna Electrical Circle, Patna
- 5. The Assistant Electrical Engineer, Bihar State Electricity Board, Bihita Patna
..... Respondents

With

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Civil Writ Jurisdiction Case No. 12572 of 2002

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M/S J M G Steel (Pvt.) Ltd., having its Registered Office at 214, Emarat Firdaus, Exhibition Road, Police Station Gandhi Maidan, Town and District Patna appearing through its Director, Gopi Chand Goenka, son of late Musadi Lal Goenka, resident of Khajekalan, Police Station Khajekalan, Town Patna City, District Patna
..... Petitioner

Versus

- 1. The Bihar State Electricity Board, appearing through its Chairman, Bailey Road, Police Station Kotwali, Town and District Patna
- 2. The General Manager-cum-Chief Engineer, Central Electricity Area, 8, Daroga Prasad Rai Path, Police Station Sachivalaya, Town and District Patna
- 3. The Electrical Superintending Engineer, Patna Electrical Circle, R. Block, Police Station Sachivalaya, Town and District patna
..... Respondents

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Appearance :

(In CWJC No.275 of 1996)

- For the Petitioner : Mr. Raj Kishore Prasad,
Mr. S.S. Rekhi,
Mr. Anupa Nand Jha, Advocates
- For the Respondents : Mr. Vinay Kirti Singh, Sr. Advocate
Mr. Vijay Kumar Verma,
Mr. Akhileshwar Singh, Advocates

(In CWJC No.455 of 1996)

- For the Petitioner : Mr. Raj Kishore Prasad,
Mr. S.S. Rekhi,
Mr. Anupa Nand Jha, Advocates
- For the Respondents : Mr. Vinay Kirti Singh, Sr. Advocate
Mr. Vijay Kumar Verma,
Mr. Akhileshwar Singh, Advocates

(In CWJC No.8209 of 1996)



For the Petitioner : Mr. Raj Kishore Prasad,
Mr. S.S. Rekhi,
Mr. Anupa Nand Jha, Advocates
For the Respondents : Mr. Vinay Kirti Singh, Sr. Advocate
Mr. Vijay Kumar Verma,
Mr. Akhileshwar Singh, Advocates
(In CWJC No.7118 of 1997)
For the Petitioner : Mr. Raj Kishore Prasad,
Mr. S.S. Rekhi,
Mr. Anupa Nand Jha, Advocates
For the Respondents : Mr. Vinay Kirti Singh, Sr. Advocate
Mr. Vijay Kumar Verma,
Mr. Akhileshwar Singh, Advocates
(In CWJC No.12572 of 2002)
For the Petitioner : Mr. Raj Kishore Prasad,
Mr. S.S. Rekhi,
Mr. Anupa Nand Jha, Advocates
For the Respondents : Mr. Vinay Kirti Singh, Sr. Advocate
Mr. Vijay Kumar Verma,
Mr. Akhileshwar Singh, Advocates

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT
Date: 01-02-2018

Heard learned counsels for the parties.

2. All these writ petitions involve common issues and are taken up for final disposal with consent of the parties. The reliefs sought in these writ petitions revolve around the claim of the petitioners under Clause 13 of the HT Agreement and for quashing the relevant orders of the concerned authorities dated 08.12.1995, 28.08.1995, 20.07.1996, 30.07.1997 and 27.07.2002 (Annexure-1 in all the writ petitions) rejecting the claim of the petitioners with regard to remission for interruption in supply of electricity even below 30 minutes and for grant of remission against the maximum demand charges.



3. Learned counsel for the parties are in agreement that the issues in these writ petitions are no longer res integra having already been decided by a Division Bench in CWJC No. 5614 of 1999 (*Jai Mangla Steels Private Limited Vs. Bihar State Electricity Board & others*) and analogous cases which have been disposed of with the following observations –

“35. Upon analysis of various decisions of this Court, as noted above, and the decision of Jharkhand High Court, in case of Rishi Cement Company Limited & Ors. (supra), with reference to the Boards’ resolution, dated 29.07.1994, we hold as follows:-

(i) In view of the Division Bench decision of this Court, in case of M/S Suprabhat Steels Limited & Ors. (supra), more particularly paragraph 40 thereof, as noticed above, remission, in Annual Minimum Guaranteed Chares, will have to be allowed to the consumers on the basis of inability of the Board to supply electrical energy and no other component can be introduced for calculation of such remission.

(ii) Clause 2 of the said notification, dated 29.07.1994, will have to be read inconsonance with paragraph 11 of the Division Bench decision of this Court in case of M/s Hind Agriculture Farm & Anr. (supra), and it is, accordingly, held that consumers shall be entitled to such remission, which would be available from the record maintained by the Board in respect of its (Board’s) inability to supply electrical energy and not inability of the petitioners to use the same. It is further directed that remission in Demand



Charges shall be calculated on the basis of following formula :-

*Total KVA charged x Total hours of non-supply
Total hours of power to be supplied.*

(iii) Clause 3 of the said notification, dated 29.07.1994, is struck down being in violation of Division Bench decision of this Court in case of M/S Suprabhat Steels Limited & Ors. (supra).

(iv) Rest of the provisions, under the said notification, dated 29.07.1994, cannot be said to be in violation of any decision of this Court or otherwise arbitrary”.

4. In the aforesaid view of the matter, the impugned orders dated 08.12.1995, 28.08.1995, 20.07.1996, 30.07.1997 and 27.07.2002 (Annexure-1 in all the writ petitions) rejecting the claim of the petitioners under Clause 13 of the HT Agreement are hereby quashed and the matter is remitted to the concerned authority, namely, Chief Engineer of the respective Power Distribution Company, for consideration and disposal of the claims of the petitioners afresh in the light of the judgment of the Division Bench of this Court rendered in the case of *Jai Mangla Steels Private Limited Vs. Bihar State Electricity Board & others* (supra). It is expected that the matter would be concluded by the concerned authorities expeditiously and in any event within a period of three months from the date of receipt/production of a copy of this judgment.

5. These writ petitions stand disposed of as above.



B.T/Chandran

(Vikash Jain, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	13.02.2018
Transmission Date	N.A.

