

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.7339 of 2016**

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Niranjan Sah @ Niranjan Kesri son of Shankar Sah, Resident of Thana Road  
Katoria, P.S.- Katoria, District- Banka.

.... .... Petitioner/s

Versus

1. The South Bihar Power Holding Company Ltd. through its Secretary having its office at Vidyut Bhawan, Bailey Road, Patna.
2. Secretary, South Bihar Power Holding Company Ltd. Vidyut Bhawan, Bailey Raod, Patna.
3. The Chairman/Managing Director, The South Bihar Power Holding Company Ltd. Vidyut Bhawan, Bailey Road.
4. The Executive Engineer, Electric Supply Division, Banka.
5. Assistant Engineer, Electric Supply Sub-Division, Banka.
6. Mr. Rishikesh Gupta, son of Sri Raj Kishore Prasad Sah, at Vivekanand Colony, Sudin Chowk Road, PS. K. Hat, District- Purnea. At present, Junior Electrical Engineer, Electric Engineer, Electric Supply Sub Division, Banka.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Dronacharya, Advocate  
For the Respondent/s : Mr. Vinay Kirti Singh, Sr. Advocate  
Mr. Vinay Kumar Verma, Advocate  
Mr. Akhileshwar Singh, Advocate

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**CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN**

ORAL JUDGMENT

**Date: 16-04-2018**

The present writ petition has been filed for quashing the demand made by the respondents for an amount of Rs. 50,792/- said to be loss caused by the petitioner to the respondent-South Bihar Power Holding Company.

2. Learned counsel for the petitioner submits that the demand of Rs. 50,792/- raised against the petitioner is wholly arbitrary and illegal considering that he merely happens to be a son of the



consumer, Shankar Sah, in whose premises a new meter had been installed on 03.12.2014. It is submitted that the procedure prescribed under Section 100 of the Code of Criminal Procedure which has been made applicable under Section 135(4) of the Electricity Act (for short 'the Act') has also not been followed. There are no independent witnesses to the seizure list.

3. Learned counsel for the respondent-power company opposes the writ petition, submitting that the petitioner ought to have availed the remedy of appeal under Section 127 of the Act, which has not been done. It is further submitted that the provisions of Section 135(4) of the Act are not applicable inasmuch as the petitioner was found tapping the electricity from the pole and it was not a case of search and seizure.

4. Having regard to the stand of the parties, this Court does not find any merit in the writ petition. The petitioner would be liable for action under Section 135 of the Act, which is applicable to any person who is found tapping or making connection with the service facility of a licensee or supplier. There is nothing in Section 135 of the Act to suggest that action thereunder can be taken only against the consumer, namely, the petitioner's father in the present case. The petitioner has also not been able to show that the provisions of search and seizure are attracted in a case where the petitioner was found to be tapping electricity from the pole and no search operation was in fact



conducted and hence the procedure prescribed under Section 100 of the Criminal Procedure Code was not applicable.

5. The writ petition accordingly stands dismissed.

**(Vikash Jain, J)**

Chandran/BT

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