

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9023 of 2013

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M/s Riga Sugar Company Limited, a company incorporated under the Indian Companies Act, 1956 having its factory at Riga, Sitamarhi, through it's Chairman-Cum-Managing Director Sri O.P. Dhanuka S/O Late P.L. Dhanuka, R/O Riga, P.O. & P.S.- Riga, District- Sitamarhi

.... Petitioner

Versus

1. The Bihar State Electricity Board, (at present known as Bihar State Power (Holding) Co. Ltd.) a body constituted under the provisions of the Indian Electricity Act having its head Office at Vidhyut Bhawan, Bailey Road, Patna through its Chairman
2. The Chairman, Bihar State Electricity Board, Vidhyut Bhawan, Bailey Road, Patna
3. The General Manager-Cum-Chief Engineer, Tirhut Electric Supply Area, Muzaffarpur
4. The Electrical Superintending Engineer, Electric Supply Circle, Muzaffarpur
5. The Electrical Executive Engineer, Electrical Supply Division, Bihar State Electricity Board, Sitamarhi

.... Respondents

with

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Civil Writ Jurisdiction Case No. 24898 of 2013

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M/S Riga Sugar Company Ltd., a company incorporated under the India Companies Act, 1956, having its factory at Riga, Sitamarhi, through it's Chairman- Cum- Managing Director Sri O.P Dhanuka, S/O Late P.L. Dhanuka Resident of Riga, P.O & P.S- Riga, District- Sitamarhi.

.... Petitioner

Versus

1. The Bihar State Power Holding Company Ltd., a company incorporated under the Indian Companies Act 1956, having its Head Office at Vidhyut Bhawan, Bailey Road, Patna through it's Chairman- Cum- Managing Director.
2. The Managing Director, North Bihar Power Distribution Company Limited, Vidhyut Bhawan, Bailey Road, Patna.
3. The General Manager- Cum- Chief Engineer, Tirhut Electric Supply Area, Muzaffarpur.
4. The Electrical Superintending Engineer, Electric Supply Circle, Muzaffarpur.
5. The Electrical Executive Engineer (Commercial & Revenue), Muzaffarpur, Electric Supply Circle, Muzaffarpur.
6. The Assistant Electrical Engineer, Electric Supply Division, Sitamarhi.
7. The State of Bihar through the District Certificate Officer, Sitamarhi, District-



Sitamarhi.

..... Respondents

Appearance :

(In CWJC No.9023 of 2013)

For the Petitioner : Mr. Y.V. Giri, Sr. Advocate.
Mr. Raj Kishore Prasad, Advocate.
For the Board : Mr. Vinay Kirti Singh, Sr. Advocate.
Mr. Vijay Kumar Verma
Mr. Akhileshwar Singh, Advocates.
For the State : Mr. Anil Kumar Singh, GP-26

(In CWJC No.24898 of 2013)

For the Petitioner : Mr. Y.V. Giri, Sr. Advocate.
Mr. Raj Kishore Prasad, Advocate.
For the Board : Mr. Vinay Kirti Singh, Sr. Advocate.
Mr. Vijay Kumar Verma
Mr. Akhileshwar Singh, Advocates.
For the State : Mr. Anil Kumar Singh, GP-26

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 30-07-2018

C.W.J.C. No. 9023 of 2013

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

2. The present writ petition has been filed for the
following reliefs -

“(i) To issue an appropriate writ/order/direction in the nature of writ of Certiorari for quashing the order passed by the respondent General Manager-cum-Chief Engineer vide his Memo No. 7609 dated 21.11.2011 (as contained in Annexure-7 to this writ application), whereby and whereunder the claim of the petitioner under Clause 13 of the High Tension Agreement for the period 1991-92 to 1994-95 (upto 02.11.1994) has been decided without taking into consideration the provisions of Clause 13 of the



H.T. Agreement and also without consideration of the various judgments of this Hon'ble Court.

(ii) To issue an appropriate writ/order/direction in the nature of writ of Mandamus directing the respondents to grant remission under Clause 13 of the H.T. Agreement to the petitioner both on the units consumed and Maximum Demand Charges on the basis of the claim filed by the petitioner for non supply of energy in accordance with the order passed by this Hon'ble Court in the case of the petitioner itself i.e. the order dated 10.12.2008 passed in C.W.J.C. No. 8360 of 1996.

(iii) To issue an appropriate writ/order/direction in the nature of Mandamus holding that the order dated 21.11.2011 passed by the respondent General Manager-cum-Chief Engineer is not in accordance with the order dated 10.12.2008 passed in C.W.J.C. No. 8360 of 1996.

(iv) To any other relief or reliefs for which the petitioner is found to be entitled in the facts and circumstances of the case."

3. At the very outset, learned counsel for the respondent Bihar State Electricity Board (later succeeded by the Bihar State Power Holding Company, hereinafter referred to as 'the Board') submits that the issue relating to grant of remission in terms of Clause 13 of the H.T. Agreement of MD and AMG for interruptions of electrical supply is no longer *res integra* and the matter has now been conclusively decided by a Division Bench of this Court in C.W.J.C. No. 5614 of 1999 *(Jai Mangla Steels Pvt. Ltd., Vs. Bihar State Electricity*



Board and Ors.) and analogous cases.

4. In the background of another subsequent judgment dated 23.02.2017 passed in C.W.J.C. No. 4893 of 2007 (*M/S Hai Medicare and Research Institute (Pvt) Ltd. Vs. Bihar State Electricity Board and Ors.*) and analogous cases, the respondents have no objection if the impugned order dated 21.11.2011 (Annexure-7) is set aside and the matter remanded to the concerned respondent authority for fresh decision.

5. Learned counsel for the petitioner also has no objection to the stand of the respondents.

6. In the above view of the matter and with the consent of parties, the impugned order as contained in Memo No. 7609 dated 21.11.2011 (Annexure-7) passed by the General Manager-cum-Chief Engineer, Tirhut Electric Supply Area, Muzaffarpur (respondent no. 3) is hereby quashed and the matter remitted to the respondent no. 3 to reconsider the claim of the petitioner and decide the same, after grant of opportunity of hearing to the petitioner, in accordance with law and particularly in the light of the judgment of this Court in C.W.J.C. No. 5614 of 1999 (*Jai Mangla Steels Pvt. Ltd.*) (*supra*).

C.W.J.C. No. 24898 of 2013

7. This present writ petition has been filed for the following reliefs –



“(i) To issue an appropriate writ/order/direction in the nature of writ of Certiorari for quashing the order dated 26.10.2013 passed by the respondent Certificate Officer in Certificate Case No. 8/1999-2000, whereby the petitioner has been directed to pay the dues amount of s. 25,04,046/- within a maximum period of one month, failing which interest and other charges on the due amount as per the provisions of Section 17 of the Public Demands and Recovery Act shall be chargeable.

(ii) To issue an appropriate writ/order/direction in the nature of writ of Certiorari for quashing the entire certificate proceeding, holding that the initiation of the certificate proceeding on the basis of an illegal requisition is not at all maintainable in the eye of law.

(iii) To issue an appropriate writ/order/direction in the nature of writ of Mandamus, directing the respondents not to insist the petitioner to deposit the certificate amount as directed by the respondent Certificate Officer, as the entire certificate proceeding itself is illegal and bad in law in view of the various pronouncement of this Hon’ble Court.

(iv) To any other relief or reliefs for which the petitioner is found to be entitled in the facts and circumstances of the case.”

8. In view of the issue relating to remission itself having been remanded to the respondent no. 3 for fresh decision, it is directed that no coercive steps shall be taken against the petitioner by the District Certificate Officer, Sitamarhi (respondent no. 7) in Certificate Case No. 8 of 1999-2000 until fresh orders have been passed by the respondent no. 3.



9. Both writ petitions stands disposed of.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	02.08.2018
Transmission Date	N.A.

