IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5011 of 2014

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Anup Kumar son of Sri Pashupati Kumar, resident of M.I.G - 51 Hanuman Nagar, P.S. - Patrakar Nagar, Kankarbagh, Director of Asha Constructions Private Limited Office at get together Vivekanand Complex, Vidyapati Marg, P.S. - Kotwali, District and Town Patna

... ... Petitioner

Versus

1. Bihar State Power (Holding) Company Limited
2. Chairman-Cum-Managing Director, Bihar State Power (Holding) Company Limited
3. Assistant Electrical Engineer, Electric Supply Sub-Division, Mauryalok, Pesu, Patna

... ... Respondents

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Appearance :

For the Petitioner : Mr. Siddhartha Prasad
Mr. Om Prakash Kumar, 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 : 04-12-2018

The present writ petition has been filed for quashing the letter no. 813 dated 22.07.2013 issued under the signature of respondent no. 3, raising provisional penal bill under Section 126 of the Electricity Act, 2003 and security bill and restraining the respondents from proceeding against the petitioner on the basis of the said demand.

2. Mr. Siddhartha Prasad, learned counsel for the petitioner submits that the impugned letter dated 22.07.2013 has been issued, *inter alia,* enclosing therewith a provisional penal bill for Rs. 7,51,161.70 under Section 126 of the Act and a demand for security deposit of Rs. 18,000/-. It is submitted that the said letter dated 22.07.2013 does not appear to be in the nature of a provisional assessment order but merely a demand pursuant thereto. It is further submitted that the inspection report dated

15.07.2013 (Annexure-A to the counter affidavit) is an afterthought and the same was not enclosed with the impugned letter dated 22.07.2013. Further no opportunity of hearing was also granted to the petitioner before issuance of the letter dated 26.11.2013 claimed in the counter affidavit to be the final assessment order, though perusal thereof indicates that it merely rejects the objection filed by the petitioner with a reminder for payment of the punitive bill.

3. Mr. Vinay Kirti Singh, learned senior counsel appearing on behalf of the respondents relies on the counter affidavit to oppose the writ petition. It is submitted that the inspection report was served upon the petitioner's Manager and as such no fault can be found with the same. It is submitted that pursuant to the provisional assessment order dated 22.07.2013 followed by the final assessment order dated 26.11.2013, the petitioner is required to make payment of the punitive bill as well as the security deposit as demanded.

4. Having heard the parties and on consideration of the material on record, this Court finds merit in the writ petition. A perusal of the impugned letter dated 22.07.2013 discloses that the same is not described as a provisional assessment order rather its speaks of a provisional assessment order having been passed. No such provisional assessment order, if passed, has been brought on record. It is also not denied that a copy of the inspection report has not been enclosed with the letter dated 22.07.2013. Similarly, the letter dated 26.11.2013 sought to be treated as final assessment order cannot be sustained inasmuch as admittedly the same has been issued without affording any opportunity

to the petitioner and without assigning any reason for rejecting the petitioner's objection.

5. In the above circumstances, this Court is not satisfied to treat the impugned order dated 22.07.2013 as a provisional assessment order nor subsequent letter dated 26.11.2013 as a final assessment order, which are hereby quashed with a direction to the Assistant Electrical Engineer, Electric Supply Sub-Division, Mauryalok, PESU, Patna (respondent no. 3) to serve a copy of the provisional assessment order if separately passed as referred to in the impugned letter dated 22.07.2013, upon the petitioner. In the absence of any such separate order, the respondent no. 3 shall proceed to pass a provisional assessment order expeditiously and proceed in accordance with law. It is made clear that the petitioner shall be at liberty to file appropriate representation with regard to the amount of Rs. 3,00,000/- deposited pursuant to the orders of this Court depending on the outcome of the provisional assessment.

6. The writ petition stands disposed of with the aforesaid observations.

(Vikash Jain, J)

Ibrar/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	17.12.2018
Transmission Date	N.A.