

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10143 of 2015

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Md. Asfaque Alam Son of Late Shahabuddin at Banwari Chowk, Dargah
raod, Opposite of Sulabh Shauchalay, P.O. Mahendru, P.S. Sultan Ganj,
Patna- 800006.

... .. Petitioner

Versus

1. The State of Bihar through its Principal Secretary Energy Department Bihar.
2. The Bihar State Power (Holding) Company Limited, Vidyut Bhawan, Bailey Road, Patna, through its Chairman-cum-Managing Director.
3. The South Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Raod, Patna, through its Director.
4. The Chief Engineer (Commercial), South Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Raod, Patna.
5. The Additional Collector, Patna.
6. The Electrical Executive Engineer, Electric Supply Division, Gulzarbagh, (Kumharar), Patna- 800006.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Indrajesh Kumar, Advocate.
For the Company	:	Mr. Vinay Kirti Singh, Sr. Advocate. Mr. Vijay Kumar Verma Mr. Akhileshwer Singh, Advocates.
For the State	:	Mr. Ajay Kumar, AC to GP-4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 22-11-2018

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

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

“(i) For quashing of the order dated 23.02.2015 passed by
learned Additional Collector, Patna, whereby and
whereunder the appeal preferred by the petitioner under
Section 127 of the Electricity Act, 2003 has been rejected
without due application of mind.



(ii) For a declaration that respondent no. 5 is not a competent authority to adjudicate an appeal under Section 127 of the Act, particularly in view of the Appeal to Appellate Authority Rules, 2004.

(iii) For a declaration that mere tampered/broken seal cannot be construed as tampered meter, so as to attract Section 126 or 135 of Electricity Act, 2003.

(iv) For a direction to the respondent authorities to adjust the excess amount deposited by the petitioner in pursuance of the provisional assessment order; and for any other relief or reliefs to which the petitioner is found entitled.”

3. Learned counsel for the petitioner raises a jurisdictional issue at the outset in terms of prayer no. (ii) above to the effect that the respondent no. 5 was not the competent authority to adjudicate the appeal. It is submitted that in terms of the notification in G.S.R. No. 265(E) dated 16.04.2004, as amended by G.S.R. 537(E) dated 07.09.2006, the appointment of the Additional Collector, Patna (respondent no. 5) as the Appellate Authority by Notification No. 15 dated 28.05.2013 is not valid in view of Rule-3 of the “Appeal to the Appellate Authority Rules, 2004”.

4. Mr. Vinay Kirti Singh, learned Senior counsel appearing on behalf of the respondents submits that the Appellate Authority has now been reconstituted by “Modification in the earlier Notification No. 15 dated 28.05.2013 to the extent of



appointing and authorizing the Assistant Executive Engineer, Bihar State Power Transmission Company Limited to act and discharge all the powers and functions of a member in the two member Appellate Authority with Additional District Magistrate already authorized as Chairperson to discharge the duties and jurisdiction of Appellate Authority under Section 127 of the Electricity Act, 2003”.

5. In view of the stand of the respondents which has not been disputed by the petitioner, the writ petition is disposed of with consent of the parties on this issue alone and without entering into the merits of the matter, setting aside the impugned order dated 23.02.2015 passed by the Additional Collector, Patna in Appeal No. 31 of 2013-14 (Annexure-11) and remitting the matter to the Appellate Authority as now reconstituted, for consideration and disposal of the petitioner’s Appeal No. 31 of 2013-14 on its own merits in accordance with law.

(Vikash Jain, J)

lbrar/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
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