IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5280 of 2015

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Sanjeev Kumar, son of Late Anil Kumar Srivastava, resident of 304-A, Jeet Enclave, Shivpuri, P.O. Shastri Nagar P.S. Shastri Nagar District Patna.

... ... Petitioner

Versus

1. The Bihar State Power (Holding) Company Ltd., Vidyut Bhawan, Bailey Road, Patna, through its Chairman-cum-Managing Director.
2. The South Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna, through its Director.
3. The Electrical Executive Engineer, Electric Supply Division, Bankipur, Patna Electric Supply Undertaking, Patna.
4. The Assistant Electrical Engineer, Electric Supply Division, Bankipur, Patna Electric Supply Undertaking, Patna.
5. The Junior Electrical Engineer, Electric Supply Division, Bankipur, Patna Electric Supply Undertaking, Patna.

... ... Respondents

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Appearance :
For the Petitioner : Mr. Suraj Samdarshi, Advocate.
For the Respondents : Mr. Anand Kumar Ojha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT
Date : 27-11-2018

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

"(i) For quashing of the bill dated 20.02.2015 whereby and whereunder an illegal and arbitrary demand of Rs. 1,30,689/- has been imposed without following the procedure of law.

(ii) For a direction to the respondent authorities to refund a sum of Rs. 94,869.92 along with interest which has been realized by the respondent authorities in contravention to the provisions of the Tariff.

(iii) For a declaration that levy of energy charge without authority of law cannot be enforced and even if it has been paid in instalments, the same cannot be treated as an acceptance by the consumer.

(iv) For a declaration that disconnection in pursuance of an illegal land arbitrary demand tantamounts to illegal disconnection and the petitioner is not liable to make any payment for such period of disconnection.

(v) For a direction to the respondent authorities to restore the electric supply of the petitioner which has been disconnected on 25.03.2015; and for any other relief or reliefs to which the petitioner is found entitled."

2. The short facts of the case according to the petitioner are that a team of officials of the respondent-Power Company visited the premises of the petitioner and conducted physical inspection on 19.12.2012 and prepared an inspection report (Annexure-1). On the basis of the meter displaying parameter with regard to maximum demand for 27 K.W., it was presumed that the connected load was 27 K.W. as against the sanctioned load of 15 K.W. For the next about 20 months, no adverse action was taken by the respondents inasmuch as neither the connected load was enhanced from 15 K.W. to 27 K.W. nor the billing was made on that basis. For the first time, the respondents raised an energy bill dated 22.10.2014 for arrears to the extent of Rs. 91,772/- to which the petitioner filed a representation on 27.11.2014 for correction of the energy bill. Pursuant to disconnection of the electricity supply, the petitioner agreed on 08.12.2014 for payment of the disputed amount in instalments and accordingly paid the re-connection charge on 09.12.2014. On the petitioner's request, an inspection was carried out again on 04.03.2015 wherein the connected load was found to be 11 K.W. and the meter reflected maximum demand of 6.82 K.W. A recommendation was accordingly made for reduction of the sanctioned load from 27 K.W. to 15 K.W. It would appear that

for the first time, an energy bill dated 20.02.2015 (Annexure-6) was raised on the basis of connected load of 27 K.W.

3. Learned counsel for the petitioner submits that the respondents have acted arbitrarily in raising an exorbitant demand of Rs. 91,772/- vide energy bill dated 22.10.2014 towards arrears of energy dues relatable to the inspection report dated 19.12.2012. As a matter of fact, except that the said inspection report has been prepared in the format prescribed for the purposes of Section 126 of the Electricity Act, 2003 (for short, 'the Act'), no compliance of the prescribed procedure thereunder has been made. The inspection report was required to incorporate the details of the connected load as required under Clause 11.1 of the Bihar Electricity Supply Code which was a mandatory requirement for purposes of treating it to be a case under Section 126 of the Act. Besides, the respondents have not passed any order of provisional assessment and as such the petitioner did not have any opportunity for filing objections against the same. Consequently, no final order of assessment has also been passed to enable the petitioner to prefer an appeal against the same. The petitioner immediately raised objection against the demand raised vide energy bill dated 22.10.2014 and sought for correction of the bill.

4. Learned counsel for the respondent-Power Company, on the other hand, submits that pursuant to the inspection report dated 19.12.2012, the petitioner took no action to challenge the

same and it is only after the energy bill dated 22.10.2014 was raised making demand for payment of arrears that an objection was raised for correction of bill. He invites reference to paragraph-8 of the counter affidavit to submit that the inspection report has been prepared in the prescribed format for purposes of Section 126 of the Act.

5. Having heard the parties and on consideration of the materials on record, I find that the respondent-Power Company has not taken a clear stand that the demand raised as aforesaid is relatable to a proceeding under Section 126 of the Act. Except a bare format of the inspection report being used at the time of inspection, the respondents have not followed the procedure prescribed for purposes of assessing the unauthorized use of electricity by the petitioner. If the intention were to treat the case of the petitioner as one under Section 126 of the Act, the inspection report was required to adhere to the norms prescribed under Clause 11.1 of the Supply Code, in terms whereof the report was required to give details of the connected load among other things. In the present case, the connected load has been taken merely on the basis of reading on T4 parameter at 27 K.W. as stated therein without however mentioning the details of the connected load. No provisional assessment nor final assessment has been made under Section 126 of the Act rather for the next about 20 months energy bills continued to be raised on the basis of sanctioned load of 15

K.W. In other words, but for the mere format of the inspection report, learned counsel for the respondents have not been able to satisfy that the case of the petitioner was in fact treated to be one under Section 126 of the Act. In this view of the matter therefore, the dispute between the parties remains no more than a billing dispute. The dispute does not stand resolved by the mere fact that the petitioner has made payment of the amount demanded in instalments, as sought to be contended by the respondents, and the petitioner remains aggrieved by reason of the energy bill alleged as excessive.

6. There is adequate provision for agitating disputes relating to excessive billing before the statutorily constituted consumer grievance redressal forum in terms of Section 42(5) of the Act. I am therefore not inclined to enter into the merits of the matter in view of such statutory alternative remedy available to the petitioner for redressal of his grievances, to which the petitioner shall be at liberty to advert to, if so advised.

7. The writ petition stands dismissed with the aforesaid observations.

Ibrar/BT **(Vikash Jain, J)**

AFR/NAFR	NAFR
CAV DATE	N.A.
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