

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24438 of 2018

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M/s. M/s. Ananya Agrotech Centre, Pvt. Ltd. Industrial Growth Centre Gidha, Koilwara through its Director Arvind Kumar Choubey, S/o Bashist Muni Choubay, Resident of Mohalla H-2, Grand Pallavi Court Apartment Judges Court Road Behind B.N. College Bankipur Road, P.S.- Pirbahore, District-Patna

... .. Petitioner/s

Versus

1. The Managing Director, South Bihar Power Distribution Company Pvt. Ltd. Vidut Bhawan 1st Bailey Road, Patna
2. G.M. Revenue Vidhut Bhawan, Bailey Road, Patna.
3. The Electrical Superintendent, Electric Supply Ara.
4. The Electrical Executive Engineer, Electric Supply Division Ara.
5. The Electrical Assistant Engineer, Supply Ara.
6. The Electrical Assistant Engineer, Revenue Ara.
7. The Junior Electrical Engineer, Ara.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Mani Bhushan Kumar, Adv.
For the Respondent/s : Mr.Prakash Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 07-05-2019 Petitioner in the present case is seeking quashing of the electricity bill dated 13.06.2018 for Rs.21,73,191/-. The petitioner is a HT consumer of the Power Company who has entered into an agreement for a contract demand of 360 K.V.A. It is the case of the petitioner that the transformer which was installed in the premises of the petitioner caught fire and burnt badly on 19.02.2017 due to which the electricity line of the petitioner's premises was disconnected. It is his grievance that due to disconnection of the electricity line, the petitioner was



unable to run his mill since 04.02.2017, he has also suffered heavy loss as he had to spend at least Rs.4,00,000/- in repairing of the transformer.

The petitioner claims that if the agreement entered into between the petitioner and the Power Company nowhere prescribes that during the defective period of transformer the minimum demand will be raised against the petitioner, the Power Company would not be justified in charging minimum guaranteed amount from the petitioner for the period when the transformer was lying defective and in burnt condition.

Mr. Prakash Kumar, learned counsel for the Power Company has placed before this Court a sample copy of the 'HT Agreement Form'. It is submitted that under Clause 4 (a) of the agreement, the consumer is liable to pay the minimum guaranteed charges irrespective of the fact whether he has consumed the energy to that extent or not. It is submitted that at this stage the electricity line of the petitioner has already been permanently disconnected by the respondents after following the provisions of the Bihar Electricity Supply Code, 2007. Clause 7.5, 7.6 and 7.7 of the Supply Code, 2007 have been relied upon on behalf of the respondents. Learned counsel submits that at this stage the petitioner has one of the two



options namely either the petitioner should seek a new connection in terms of Clause 7.7 (a) after making payment of the outstanding amount or he may seek re-connection of the electricity line after paying the demand charges/fixed charges, minimum charges and disconnection/re-connection charges up-to-date.

It is also a submission of the learned counsel for the respondents that because the Unit in question has ceased to be a working unit, the petitioner would not be entitled for remission under Industrial Incentive Policy, 2011.

In the counter affidavit, a plea has also been taken on behalf of the respondents that the petitioner has got an alternative remedy by filing an appropriate complaint before the Consumer Redressal Forum constituted under Section 42 (5) of the Electricity Act, 2003 who is competent to adjudicate the matter of billing disputes.

Since, learned counsel for the petitioner has submitted before this Court that the said forum is not functional, the Court proceeded to hear the matter on merit itself.

After hearing learned counsel for the parties and on perusal of the records, this Court finds that Clause 4 (a) of the agreement reads as under:-

“4(a) Subject to the minimum contract



demand applicable for the category of supply in which the consumer falls as per Board's tariff the consumer shall pay to the Board for the energy so supplied and registered or taken to have been supplied as aforesaid at the appropriate rates applicable to the consumer according to the tariffs framed by the Board and in force from time to time the presently enforced tariffs being given in the Schedule to this agreement for easy reference. Such reference is subject to provisions of Clause 14 appearing hereinafter:

Provided that notwithstanding anything the said above but subject to the provisions of Clause 13 appearing hereinafter the consumer shall have to pay minimum charges as specified in the above said tariffs framed by the Board and enforced from time to time irrespective of whether energy to that extent has been consumed or not. (Such minimum charges are referred as "minimum guaranteed charges" at other places in this agreement.)"

It is apparent from a bare reading of the proviso to Clause 4 (a) that the consumer is liable to pay minimum charges as specified in the tariff framed by the Board and enforced from time to time irrespective of whether energy to that extent has been consumed or not. The submission of learned counsel for the petitioner is that in absence of there being a clear stipulation that during the defective period also the minimum demand charges shall be applicable, the same shall not be applicable in the case such as one of the petitioner in the present, would not appeal to this Court. The Court finds that the specific averment



of the respondents that the electricity line of the petitioner has been permanently disconnected is not denied. This being the position, in the opinion of this Court, the reliefs prayed in the writ application cannot be granted by this Court as the petitioner would be bound by the agreement which he has executed with the Power Company.

The writ application has thus no merit, it is dismissed, accordingly.

(Rajeev Ranjan Prasad, J)

R.R.Ojha/-

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