

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.595 of 2019

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Mohammad Naushad, Son of Md. Yaqub Mian, Resident of Mahmuda, P.O. Nalanda, P.S.- Kudaganj, Distt. Nalanda, Bihar-- 801303, at present Raushan Market, Chunauti Kuan, Phulwarisharif, P.S. and P.S. Phulwarisharif, District-Patna.

... .. Petitioner/s

Versus

1. South Bihar Power Distribution Company Ltd. Vidyut Bhawan, Bailey Road, Patna- 800021 through its Managing Director
2. The Electrical Executive Engineer, South Bihar Power Distribution company Ltd., Phulwarisharif Supply Division, Patna.
3. Assistant Electrical Engineer, South Bihar Power Distribution company Ltd., Phulwarisharif Supply Division, Patna.
4. Birju Pd, Son of Ambika Prasad, Issuopur, P.S.- Phulwarisharif, Dist- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ajay Prasad, Adv. Mr.Ajit Kr. Singh, Adv. Mr.Kaushal Kr. Adv.
For the Respondent SBPDCL:		Mr.Vinay Kirti Singh, Sr. Adv. Mr. Viday Kr.Verma, Adv. Mr. Akhileshwar Singh, Adv.
For the Pvt. Respondent	:	Mr.Lala Sachinanda Kumar, Adv. Mr. Ashok Kr. Sinha, No.2, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

7 01-04-2019 Heard learned counsel for the petitioner, learned Senior Counsel representing respondent nos.1 to 3 and learned counsel representing respondent no.4.

This writ application has been preferred for a direction to the respondent authorities, particularly, respondent nos.1 to 3 to grant the new electric connection to the petitioner in the tenanted premises in which the petitioner is running his shop.



Facts of the case are not much in dispute. The petitioner entered into the tenanted premises under a valid agreement with respondent no.4 but over the period they developed a dispute as according to respondent no.4, the petitioner did not vacate the premises on expiry of lease and there had been some issues with respect to payment of rent also. Presently, an eviction suit is going on in the Court of learned Munsif 1st, Patna. Learned counsel for respondent no.4 admits at the Bar that pursuant to the order dated 01.10.2016 passed by the learned Munsif 1st, Patna in Eviction Suit No.35 of 2015, the petitioner had deposited the outstanding amount of Rs.22,400/- which respondent no.4 has already received and then the petitioner is depositing the rent amount in Court each and every month.

The reason to file the present writ application arose to the petitioner when respondent no.4 made a request to the respondent nos.1 to 3 that the electricity connection in the shop premises which was provided in the name of respondent no.4 be withdrawn. At the instance of respondent no.4 in whose name the electric meter was standing the respondent authorities disconnected the electricity line in the shop premises. The petitioner, thereafter, made a request for grant of fresh



connection in accordance with the provisions of the Electricity Act and the Supply Code framed thereunder but is not being provided a fresh connection.

In course of hearing, Mr. Vinay Kirti Singh, learned Senior Counsel representing respondent nos. 1 to 3 submits that as a matter of policy decision, he has no difficulty in providing the electricity connection in the premises to the petitioner provided the petitioner pays adequate security in terms of the supply regulation. Learned counsel for the respondent no.4 has, however, attempted to argue that because the petitioner is continuing in the premises after the expiry of the lease, he should not be allowed to get the electricity connection afresh.

Having heard learned counsel for the parties, this Court finds that so far as the petitioner and respondent no.4 are concerned, they are fighting an Eviction Suit No.35 of 2015 in the Court of learned Munsif 1st, Patna. The petitioner is paying monthly rent to respondent no. '4' by depositing the amount every month in Court. At this stage, when the petitioner is in possession of the shop, but may be evicted in accordance with law, as per the policy of the respondent nos.1 to 3, there is no difficulty in providing the fresh electricity connection to the petitioner. There is also no statutory bar. The Submission of



learned counsel for the respondent no.4 that because of ongoing dispute, the petitioner should not be allowed to get new electricity connection would not appeal to this Court in absence of any statutory bar and the same is rejected for a simple reason that it would amount to creating a constraint and compelling the petitioner to vacate the premises curtailing the contest and even before an appropriate order is passed in the eviction suit. The submission of respondent no.4 is, thus, not in-consonance with and in accordance with law. On the other hand, this Court finds that there is a policy decision and under the statute itself the power company is obliged to provide the new connection in such circumstance. By virtue of Clause 4.1 of the Supply Code, 2007 there is no bar in providing fresh connection to the petitioner whose entry in the premises under agreement is not disputed, though it is alleged against him that he has not vacated the premises after expiry of lease. An eviction suit is still pending in this connection.

Learned counsel for the petitioner has submitted that petitioner is ready and willing to provide adequate security in terms of the requirement as mentioned in the Supply Code.

In the given facts and circumstance of the case, this Court would direct respondent nos.1 to 3 to provide a fresh



electric connection in the shop in question subject to the petitioner providing adequate security to the respondent nos. 1 to 3 in terms of the Supply Code and in accordance with law.

This writ application stands disposed of with the aforesaid observations and directions.

Mr. Vinay Kirti Singh, learned Senior Counsel has expressed apprehension at this stage that the respondent no.4 may create any hurdle during installation of the electricity meter in the premises, therefore, in such case the respondent nos.1 to 3 should be granted liberty to take help of the police force.

This Court permits respondent nos.1 to 3 to seek police help if occasion so arises.

(Rajeev Ranjan Prasad, J)

R.R.Ojha/-

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