

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6267 of 2018

1. Sanjay Kumar Singh Son of Sri Mahendra Prasad Singh, Resident of Village- Bhagwanpur, Police Station- Jehanabad in the District of Jehanabad.
2. Manish Kumar, Son of Sri Sampurna Nand Singh, resident of Village- Sikariya, Police Station- Jehanabad in the district of Jehanabad.
3. Shambhu Kumar, Son of Late Hari Prasad, resident of Village- Pinjaur, Police Station- Parasbiga in the district of Jehanabad.
4. Brajesh Kumar, Son of Rajendra Sharma, Resident of village- Algana, Police Station- Kako in the district of Jehanabad.
5. Nitish Kumar, Son of Ramanand Singh, Resident of Village- Lajo, Police Station- Pali in the District of Jehanabad.
6. Md. Masood Alam, son of Tahir Fazilat, resident of Village- Shakoor, Police Station- Bahadurganj in the district of Kishanganj.
7. Md. Lukman, Son of Ajijul Rahman, resident of Village- Gangi, Police Station- Bahadurganj in the district of Kishanganj.
8. Raghav Kumar Mandal, Son of Harinandan Kamat, resident of Village- Tulsia, Police Station- Dighal Bank in the District of Kishanganj.
9. Rajiv Kumar Singh, Son of Sri Mahadeo Prasad Singh, resident of Village- Gopalpur, Police Station- Bahadurganj in the district of Kishanganj.
10. Vijay Kumar Sah, Son of Bindeshwar Prasad Sah, resident of Village- Phulwariya, Police Station- Tedha Gachhi in the district of Kishanganj.
11. Vijay Kumar Chaudhary, Son of Sri Shashi Bhushan Chaudhary, resident of Village- Fatehpur, Police Station- Fatehpur in the District of Kishanganj.
12. Mithun Kumar Sharma, Son of Hari Mohan Prasad Sharma, Resident of Village- Farabari, Police Station- Tedha Gachhi in the district of Kishanganj.
13. Sant Lal Singh, Son of Chandra Mohan Singh, resident of Village- Khan, Police Station- Tedha Gachhi in the district of Kishanganj.
14. Md. Muzammil Parwaj, Son of Md. Ashfaq, resident of Village- Kharna, Police Station- Thakurganj in the district of Kishanganj.
15. Sakti Kumar Ganesh, son of Satya Narayan Ganesh, resident of Village- Haldi Bari, Police Station- Pothia in the district of Kishanganj.
16. Raju Ray, Son of Ganpat Ray, resident of village- Kelabari, Police station- Pothia in the district of Kishanganj.
17. Sushil Kumar Singh, Son of Sridhar Prasad Singh, Resident of Village- Purandarpur, Police Station- Pothia in the district of Kishanganj.
18. Bikash Kumar Mandal, Son of Triveni Prasad Mandal, resident of Village- Butijhari, Police Station- Galgaliya in the district of Kishanganj.
19. Ranjeet Kumar Singh, Son of Ravindra Chandra Singh, resident of Village-



Galgaliya, Police Station- Galgaliya in the District of Kishanganj.

20. Subhash Yadav, Son of Madhuban Yadav, resident of Village- Galgaliya, Police Station- Galgaliya in the district of Kishanganj.
21. Birendra Kumar Singh, Son of Sri Bachcha Singh, resident of Village- Chainpur Mubarakpur, Police Station- Siswan in the district of Siwan.
22. Kaushlendra Kumar Tiwary, Son of Rama Shankar Tiwary, resident of Village- Ramgarh, Police Station- Siswan in the District of Siwan.
23. Deepak Pathak, son of Sri Upendra Pathak, resident of Village- Machkan, Police Station- Hussainganj in the district of Siwan.
24. Rahul Kumar Sah, Son of Ram Sagar Sah, resident of Village- Salempur, Police Station- Andar in the District of Siwan.
25. Raj Kumar Sah, Son of Dilip Sah, resident of Village- Salempur, Police Station- Andar in the District of Siwan.
26. Sandeep Kumar Sah, Son of Shiv Nath Sah, resident of Village- Chachhajawa, Police Station- Andar in the district of Siwan.
27. Pramjit Prasad, Son of Ramayan Prasad, resident of Village- Hasanpurwa, Police Station- Hasanpur in the district of Siwan.
28. Mantu Kumar Yadav, Son of Suresh Yadav, resident of Village- Pahar Dei, Police Station- Jiradeo in the district of Siwan.
29. Sanni Kumar Srivastava, Son of Sri Dina Nath Srivastava, resident of Village- Dindayalpur, Police Station- Tarbara in the district of Siwan.
30. Arjun Yadav, son of Brija Yadav, Resident of Village- Nagai, Police Station- Siswan in the district of Siwan.
31. Harendra Kumar Pandey, Son of Prithvi Nath Pandey, resident of Village- Chainpur Mubarakpur, Police Station- Siswan in the district of Siwan.
32. Shekhar Kumar Das, Son of Bhupendra Narayan Das, resident of Village- Kharahiya Basti, Police Station- Araria in the district of Araria.
33. Hasan Owais, Son of Owais Ahmad, resident of Village- Gaira, Police Station- Araria in the district of Araria.
34. Ranjeet Kumar Chaudhary, Son of Shiv Narayan Chaudhary, resident of Mohalla- Dharmganj, Police Station- Araria in the district of Araria.
35. Murtaja Alam, Son of Moinuddin, resident of Village- Sumariya, Tola Artiya, Police Station- Jokihat in the district of Araria.
36. Sahnawaz Alam, Son of Helaluddin, resident of Village- Simariya, Police Station- Jokihat in the district of Araria.
37. Pradeep Vishwakarma, Son of Nandu Vishwakarma, resident of Village- Siris, Police Station- Barun in the district of Aurangabad.
38. Paudhari Kumar, Son of Indradeo Pandey, residnet of Village- Batura, Police Station- Jamhore, in the District of Aurangabad.

... .. Petitioners

Versus

1. The South Bihar Power Distribution Comp. Limited through its Managing Director, Vidyut Bhawan, Baily Road, Patna.



2. The Managing Director, South Bihar Power Distribution Comp. Limited, Vidyut Bhawan, Baily Road, Patna.
3. The Managing Director, North Bihar Power Distribution Comp. Ltd. Vidyut Bhawan, Baily Road, Patna.
4. The Finance Controller, South Bihar Power Distribution Comp. Ltd. Vidyut Bhawan, Baily Road, Patna.
5. The Finance Controller, North Bihar Power Distribution Comp. Ltd. Vidyut Bhawan, Baily Road, Patna
6. The Electrical Superintending Engineer, Electric Supply Circle, Gaya.
7. The Electrical Superintending Engineer, Electric Supply Circle, Chapra in the District of Saran.
8. The Electrical Superintending Engineer, Electric Supply Circle, Purnea.
9. The Electrical Executive Engineer, Electric Supply Division, Jehanabad.
10. The Electrical Executive Engineer, Electric Supply Division, Aurngabad.
11. The Electrical Executive Engineer, Electric Supply Division, Kishanganj.
12. The Electrical Executive Engineer, Electric Supply Division, Araria.
13. The Electrical Executive Engineer, Electric Supply Division, Siwan.
14. The Assistant Electrical Engineer, Electric Supply Sub-Division, Jehanabad.
15. The Assistant Electrical Engineer, Electric Supply Sub-Division, Thakurganj in the district of Kishanganj.
16. The Assistant Electrical Engineer, Electric Supply Sub-Division, Bahadurganj in the district of Kishanganj.
17. The Assistant Electrical Engineer, Electric Supply Sub-Division, Siwan.
18. The Assistant Electrical Engineer, Electric Supply Sub-Division, Aurangabad.

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Ranjeet Kumar, Advocate
For the Respondent/s : Mr. Vinay Kirti Singh, Sr. Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 12-03-2019 Petitioners in the present case are seeking quashing of the letter No. 171 dated 12.08.2017 issued under signature of respondent no. 14 address to all Rural Revenue Franchisee (hereinafter referred to as 'R.R.F.') Electric Supply Sub Division, Jehanabad. By the impugned letter the petitioners have



been directed to deposit revenue collection amount and bills for commission amount within a period of 7 days and after 7 days their agreement will automatically come to end.

It is the case of the petitioners that the petitioner nos. 1 to 5 were appointed as R.R.F. for different Feeders under Electric Supply Sub-Division, Jehanabad. Petitioner nos. 6 to 19 were appointed as R.R.F. for different Feeders/areas lying under the territorial jurisdiction of Electric Supply Sub-Division, Bahadurganj and Thakurganj. Similarly petitioner nos. 20 to 31 were appointed as R.R.F. for different Feeders/area lying under the territorial jurisdiction of Electric Supply Sub-Division, Siwan and petitioner nos. 32 to 36 were appointed as R.R.F. for different Feeders/area lying under the territorial jurisdiction of Electric Supply Sub-Division, Araria. Regarding petitioner nos. 37 and 38 it is stated that they were appointed as R.R.F. for different Feeders/area lying under the territorial jurisdiction of Electric Supply Sub-Division, Barun, Aurangabad.

It is their common case that the agreements were executed between the petitioners and the respective respondents either with the South Bihar Power Distribution Company Ltd. Or North Bihar Power Distribution Company Ltd. (in short hereinafter referred to as 'SBPDCL' or 'NBPDC') for



distribution and collection of bills for a period of one year and later on the period of agreement was extended and agreement period of all the petitioners were still existing when all of a sudden a letter bearing No. 1123 dated 01.08.2017 was issued from SBPDCL directing all the Electric Executive Engineer that if the R.R.F. has violated the terms and conditions of the agreement then they should be removed after giving notice/opportunity of hearing.

It is the case of the petitioners that in the garb of letter No. 1123 dated 01.08.2017 as contained in Annexure-5 to the writ application, the impugned order as contained in Annexure-1 has been issued without giving any notice to the petitioners. It is submitted that the petitioners were restrained from execution of work of R.R.F. and in the place of petitioners, the work of R.R.F. has been allotted to the private companies and without providing any opportunity of hearing to the R.R.F. working in the District of Siwan/Kishanganj/Araria etc. including the petitioners were restrained from execution of work as R.R.F.

In course of argument learned counsel for the petitioners has placed a copy of the order dated 18.08.2018 passed by a learned co-ordinate Bench of this Court in C.W.J.C. No. 17041 of 2017 in which a learned co-ordinate Bench has



held that termination of the contract which was yet to expire in the year 2019 without giving any notice or show cause to the petitioners is not just and proper and the same has been held to be violative of principles of natural justice. The order of cancellation of contract has been therefore, set aside and the respondents have been given liberty to proceed afresh in accordance with law after giving show cause notice to the petitioners. Again in C.W.J.C. No. 13301 of 2017 a similar view has been taken by a learned co-ordinate Bench of this Court.

It is further submitted that in terms of the provisions of the scheme known as Rural Revenue Franchisee Scheme 2013 (hereinafter referred to as 'the Scheme'). It is the Junior Engineer of the Electricity Supply Section under whom the work has been awarded will monitor the progress of the work done by the appointed Rural Revenue Franchisee and in case it is found that the appointed Rural Revenue Franchise are performing very poorly i.e. not able to achieve 80% of the meter reading and bill distribution in consecutive three months, may be debarred from the executing of the work by cancellation of the work order and the work may be awarded to other valid applicants for which panel will be prepared. In this connection reliance has been placed on Clause 19.1 and 19.2 of the Scheme.



A copy of which is available on the record as Annexure-2 to the writ application.

It is further pointed out that in terms of Clause 24 of the Scheme in case of a termination of the agreement, a 14 days notice in advance is required to be given to the R.R.F. which will take its effect on the first day of the next calendar month.

It is submitted that the impugned order as contained in Annexure-1 to the writ application has been issued by merely saying that from last month work of billing and collection of revenue has remained unsatisfactory which has caused loss or revenue to the SBPDCL and since July, 2017 only 9% consumers have deposited the electricity bills, therefore, decision has been taken that the billing and collection of revenue work will be done by any other agencies.

In the aforesaid background of the facts, learned counsel submits that in terms of Clause 19.2 of the Scheme, three months period has not been taken into consideration for purpose of passing of the impugned order.

On the other hand learned counsel for the respondents have contested the writ application on the ground that since the petitioners had failed to perform in the matter of billing and collection of revenue, the respondents have rightly taken the



decision.

Having heard learned counsel for the petitioners and learned counsel representing the respondents, this Court finds that the impugned order as contained in Annexure-1 has been passed by taking note of the performance of the petitioners for the month of July, 2017 alone whereas in terms of Scheme at least three months performance should have been taken into consideration and it is only when the petitioners would have been found performing very poorly during the three consecutive months, they could have been debarred from the execution of the work.

In the present case in the counter affidavit there is no denial of fact that no notice was ever served upon the petitioner before passing of the impugned order. In the opinion of this Court, these are the sufficient reasons for setting aside of the impugned order as having been passed in violation of the principles of natural justice.

In the result, the impugned order is quashed. The writ application is allowed with liberty to the respondents to act in terms of the provisions of the Scheme and in case it is found that the performance of the petitioners are very poor, they may proceed to take action in terms of Clause 19.2 of the Scheme.



The writ application is allowed to the extent indicated
above.

(Rajeev Ranjan Prasad, J)

avin/-ved-

U			
---	--	--	--

