

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10271 of 2014

Praveen Kumar Singh, Son of Sri Vinod Kumar Singh, Resident of Village - Marwa, P.S. - Vidiyapati Nagar, Dalsingsarai, Distt. - Samastipur.

... .. Petitioner

Versus

1. North Bihar Power Distribution Company Limited Bailey Road, Patna through its Managing Director.
2. Deputy General Manager (Revenue) North Bihar Power Distribution Company Limited, Bailey Road, Patna.
3. Electric Superintending Engineer, Electric Supply Circle, Samastipur.
4. Electric Executive Engineer, Electric Supply Division, Dalsingsarai.
5. Assistant Electric Engineer, Electric Supply Sub-Division, Dalsingsarai.
6. Junior Electric Engineer, Electric Supply Section, Dalsingsarai.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Abhay Kumar Singh No. 1, Advocate Mr. Bharat Bhushan, Advocate
For the Respondent/s	:	Mr. A.K. Ojha, Standing Counsel Mr. A.K. Karna

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 02-01-2019 This writ application has been preferred for setting aside the order contained in Letter no. 1006 dated 08.05.2014 (Annexure-14) issued by Electric Superintending Engineer, Samastipur as also for quashing the Letter No. 699 dated 10.05.2014 issued by Electric Executive Engineer, Electric Supply Division, Dalsingsarai. A copy of this letter No. 699 has been enclosed as Annexure-15 to the writ application.

By the impugned order, the respondents have cancelled the Agreement No.02/2012-13 and forfeited the security amount deposited by the petitioner

Mr. Abhay Kumar Singh, learned counsel representing



the petitioner has made numerous submissions in order to assail the impugned orders. It is his one of the submissions that while the show cause vide Letter No. 3984 dated 19.10.2013, as contained in Annexure-10, was issued with respect to the alleged breach committed by the petitioner in respect of his work for installation of meter for which agreement dated 08.05.2013 was entered into, the final order dated 08.05.2014 (Annexure-14) and the consequential order, as contained in Annexure-15, have been issued by cancelling the agreement dated 01.01.2013 which is altogether with respect to a different work assigned to the petitioner. Learned counsel submits that while passing Annexure-14 to the writ application, the reply of the petitioner as contained in Annexure-11 has not at all been referred to. It is, thus, submitted that Annexure-14 is bad in law for non-consideration of the reply of the petitioner and for not assigning any reason to support the action of the respondents. Learned counsel has also submitted that in fact the installation of meter in the premise of the consumer Suresh Paswan was done by this petitioner on 29.06.2013 because much before allotment of this work to the petitioner vide agreement dated 08.05.2013, the respondent authorities had accepted the security deposits and meter fee etc. from the said consumer on



05.01.2012 and 21.02.2013 respectively. It has, thus, been submitted that the respondent authorities have themselves accepted the request of the consumer Suresh Paswan to install a domestic meter. What was left for the petitioner has been done by him by installation of meter and no fault may be found in the action of the petitioner on this score alone. Learned counsel further submits that it is the petitioner who had at the earliest opportunity informed the Assistant Engineer that the consumer Suresh Paswan was running a grill shop using the meter in question, thus, in terms of the stipulated conditions on which the work was allotted to the petitioner, he was the first person who had informed about the irregularities and illegalities, if any, committed in the premise of the consumer Suresh Paswan. Learned counsel submits that in fact STF raid was conducted on the basis of information made available by the petitioner, therefore, it is his submission that the petitioner had performed his part of the obligation under the contract dated 08.05.2014.

Mr. Ojha, learned counsel representing the North Bihar Power Distribution Company Ltd. though initially resisted the argument of learned counsel representing the petitioner but while going through the impugned order dated 08.05.2014, as contained in Annexure-14 to the writ application, he agrees to



this extent that the order nowhere takes care of the reply submitted by the petitioner, a copy of which is available on the record as Annexure-11 to the writ application.

In the opinion of this court since it is apparent on the face of the record that the impugned order (Annexure-14) and the consequential order (Annexure-15) have been issued without considering the reply of the petitioner, these orders are liable to be set aside on this ground alone. Non-consideration of the reply of the petitioner would amount to violation of principles of natural justice and it is a jurisdictional error committed by the authorities concerned.

In the aforesaid view of the matter, Letter No. 1006 dated 08.05.2014 (Annexure-14) and Letter No. 699 dated 10.05.2014 (Annexure-15) are hereby set aside. The Electrical Superintending Engineer, Electric Supply Circle, Samastipur and Electrical Executive Engineer, Electric Supply Division, Dalsingsarai are directed to pass a fresh and reasoned order within a period of 90 days from the date of receipt/production of a copy of this order.

It goes without saying that, while passing the reasoned order both the authorities shall take into consideration each and every submission of the petitioner and those will be



considered and duly met in the reasoned order. The petitioner is also given liberty to file a detail comprehensive reply in order to substantiate his pleas within a period of 15 days from today.

This Court has purposely not gone into the merit of the contentions raised by Mr. Abhay Kumar Singh, learned counsel representing the petitioner because once the matter is being remitted to the authorities concerned, this Court is conscious that the authorities concerned should be given full play in action. It is expected that the authorities shall pass a reasoned order afresh within the stipulated period as stated above.

Upon consideration of the reply, if the competent authority comes to a conclusion that the petitioner is entitled for certain admitted amount under the agreement in question, the same shall also be paid to the petitioner within 60 days after taking such decision.

The writ application is allowed with the observations and directions made above.

(Rajeev Ranjan Prasad, J)

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