

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10546 of 2015

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M/s Basant Vihar son of Late Vansidhar Agrawal, resident of Mohalla-BANDar BAgicha, P.O. and P.S.- Kotwali, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through its Principal Secretary, Energy Department, Bihar, Patna.
2. The Bihar State Power (Holding) Company Limited, Vidyut Bhawan, Bailey Raod, Patna, through its Chairman-cum- Managing Director.
3. The South Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Raod, Patna, through its Director.
4. The Chief Engineer, Commercial, South Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna.
5. The Electrical Superintending Engineer, Patna Circle, R Block, Patna.
6. The Electrical Executive Engineer, South Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna.
7. The Assistant Electrical Engineer, Electric Supply Sub-Division, Maurya Lok, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 13647 of 2015

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1. The South Bihar Power Distribution Company Ltd. (Erstwhile- BSEB) through its Managing Director, having its Head Offioce at Vidyut Bhawan, Bailey Road, Patna.
 2. The Assistant Electrical Engineer- cum - Assessing Officer, Electric Supply Sub - Division, Mauryalok, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Energy Department, Bihar, Patna.
2. The Additional Collector- cum - Appellate Authority, Vikash Bhawan, Patna Collectariate, Patna.
3. M/s Basant Vihar Shop No. 52, Block - B, Maurya Lok Complex, P.S. - Kotwali, District / Town - Patna S/o Late Vansidhar Agrawal, resident of Mohalla - Bandar Bagaicha, P.S. -Kotwali District Town - Patna.

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 10546 of 2015)



For the Petitioner/s : Mr.Suraj Samdarshi, Adv.
For the Respondent-State: Mr. Durgesh Nandan, AAG-14
For the SBPDCL : Mr. Vinay Kirti Singh, Sr. Adv.
Mr. Vijay Kr. Verma, Adv.
Mr. Akhileshwar Singh, Adv.
(In Civil Writ Jurisdiction Case No. 13647 of 2015)
For the Petitioner/s : Mr.Mr. Vinay Kirti Singh, Sr. Adv.
Mr. Prakash Kumar, Adv.
For the Respondent- State: Mr.Durgesh Nandan, AAG-14
Mr. Jitendra Kumar, AC to AAG-14

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT
Date: 24-07-2019

Both the aforesaid writ petitions are being disposed of with the consent of the parties in order to bring an end to the long drawn litigation between the parties arising out of a case which has resulted in an order being passed by the appellate authority under Section 127 of the Electricity Act, 2003 dated 26.11.2008 on account of which both the parties are aggrieved.

2. It would be relevant to indicate that an inspection had been conducted in the premises of the petitioner of the first case on 25.11.2008 wherein allegation had been levelled against the petitioner of the 1st case, by the authorities of the erstwhile Bihar State Electricity Board, of having tampered and damaged the meter so as to gain benefit and accordingly, an assessment was made under Section 135 of the Electricity Act on 15.06.2007, according to which the 'D' factor was taken to be 529 days. The said order passed by the Assessing Officer was challenged by the petitioner in Appeal No.12 of 2012-13 before the appellate authority under Section 127 of the Electricity Act,



2003 and thereafter the appellate authority had passed an order dated 03.12.2014 wherein it has been directed to correct the 'D' factor, however, the said order did not disclose the number of days to be taken for the purposes of assessment. Nonetheless, the said order dated 3.12.2014 stipulates that only after deduction of the consumed unit from the assessed unit, the same can be doubled.

3. During the course of argument, it transpired that the respondent Bihar State Electricity Board had earlier made an inspection on 8.2.2008 and found everything normal and had not found any tampering with the meter. During the course of argument, it was also pointed out by the parties that the MRI report prepared pursuant to the inspection report dated 25.11.2008 showed the alleged missing potential of RS for a period of 335 days hence one of the alternate argument is that instead of 529 days, 335 can be taken to be the 'D' factor.

4. It is the contention of the learned counsel for the petitioner that at best the Assessing Officer could have assessed the compensation amount by going back to the last inspection dated 8.2.2008 i.e. for a period of 290 days.

5. In order to resolve the controversy, the learned Senior counsel for the respondent- South Bihar Power



Distribution Company Limited was granted time to seek instruction as to whether the company is ready to assess the amount of compensation based on 335 days as has been depicted in the MRI report vide inspection report dated 25.11.2008. The learned senior counsel for the respondents, on instruction, submits that the company is ready to make assessment by taking 'D' factor as 335 days.

6. Having regard to the aforesaid submissions made by the learned counsel for the respective parties and having regard to the agreement reached at between them, I deem it fit and proper to dispose of the present writ petition with a direction to the respondent South Bihar Power Distribution Company Limited to consider the 'D' factor as 335 days and accordingly make the final assessment, however, it is further clarified that the said assessment shall be made by deducting the amount consumed from the assessed units before multiplying the same by two, as has been held in the case M/S Zee Saheb Cosmetic Zone vs. the Bihar State Electricity Board and others, reported in 2010(4) PLJR 863. In order to avoid any further litigation it is further made clear that since the final assessment is now going to be done under the orders of this Court and with the consent of the parties, no interest would be levied for a



period of four weeks from the date of preparation of the final assessment and service of the same upon the petitioner herein for payment, however, in case the payment is not made within a period of four weeks from the service of final assessment bill, statutory interest, as provided for under the law, shall be applicable.

(Mohit Kumar Shah, J)

Tiwary/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

