

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1742 of 2018

In

Civil Writ Jurisdiction Case No.6016 of 2015

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Md. Anis Son of Late Kitab Hussain, Proprietor M/s Royal Ice Plant,
Bindusar, Rajeev Nagar, P.O.- Rajeev Nagar, Police Station- Mahadeva (O.P.),
District- Siwan

... .. Appellant/s

Versus

1. The State Of Bihar and Ors through the Chief Secretary, Bihar, Patna
2. The Principal Secretary, Department of Energy, Bihar, Patna
3. The Chairman-cum-Managing Director, Bihar State Power Holding Company, Vidyut Bhawan, Bailey Road, Patna
4. The Managing Director, North Bihar Power Distribution Company Ltd. Vidyut Bhawan, Bailey Road, Patna
5. The Electrical Superintending Engineer, Saran, Chapra
6. The Electrical Executive Engineer, Siwan
7. The Assistant Electrical Engineer, Siwan

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Sanjay Kumar
For the Respondent/s : Mr.Yogendra Prasad Sinha

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 06-05-2019 Heard learned counsel for the appellant.

The appeal questions the correctness of the judgment dated 15th May, 2018 whereby the learned Single Judge has dismissed the writ petition challenging the action of the respondent-Power Holding Company by imposing a penalty on the ground that the appellant has not disclosed the correct facts about his having approached the District Consumer Forum.



Learned counsel for the appellant contends that, as a matter of fact, the District Consumer Forum in Siwan was not functioning and it is in this background that the writ petition had to be filed under compulsive situation where the appellant was facing the realization of penalty from the respondents.

We have heard Shri Vinay Kirit Singh, learned Senior Counsel for the respondent No. 4.

The question as to what appropriate relief can be granted to the appellant is to be governed by the relevant law providing for a remedy against an imposition of penalty. We find that the appellant does not appear to have approached the correct forum and has rather been approaching every possible forum in order to obtain any relief. We find that this search for an appropriate forum by the appellant is totally misplaced and, as a matter of fact, the appellant should have filed an appeal against the imposition of penalty.

The observations of the learned single Judge are only a refusal to exercise discretion on account of the non-disclosure of the fact relating to the appellant having approached the District Consumer Forum.

This, therefore, is not a decision on the merits of the claim of the appellant and it shall be open to the appellant to



approach the appropriate forum for the redressal of his grievance.

The appeal is consigned to records.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

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