

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19996 of 2019

M/S Maruti Nandan Food Products Pvt. Ltd., situated at Gidha Ara (Bhojpur) through its Managing Director, Abhimanyu Kumar Singh (male), aged about 34 Years, Son of Arjun Singh, having its registered Office at Rukunpura, Bailey Road (Near Sigh Petrol Pump), Beside Bihar Dalit Vikash Samiti, P.S.-Rupaspur, District-Patna.

... .. Petitioner

Versus

1. The Bihar State Power (Holding) Company Ltd., Vidyut Bhawan, Bailey Road, Patna through its Chairman.
2. The South Bihar Power Distribution Company Ltd., Vidyut Bhawan, Bailey Road, Patna through its Managing Director.
3. The Finance Controller, South Bihar Power Distribution Company Ltd., Vidyut Bhawan, Bailey Road, Patna.
4. The Chief Engineer (Commercial), South Bihar Power Distribution Company Ltd., Vidyut Bhawan, Bailey Road, Patna.
5. The Electrical Superintending Engineer (HT Cell), South Bihar Power Distribution Company Ltd., Vidyut Bhawan, Bailey Road, Patna.
6. The Electrical Executive Engineer (HT Cell), South Bihar Power Distribution Company Ltd., Electric Supply Division, Ara.
7. The Assistant Electrical Engineer, Electric Supply Division, Ara.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Vipin Kumar, Advocate
For the SBPDCL	:	Mr.Vinay Kirti Singh, Senior Advocate
		Mr.Vijay Kumar Verma, Advocate
		Mr.Akhileshwar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 08-11-2019 The conduct of the respondent in not allowing this Court to proceed with this matter is required to be deprecated. On 01.10.2019 when this case was listed, no one appeared on behalf the respondents, still the matter was adjourned for 15th October, 2019 giving a direction to the respondents to file a counter affidavit so that on the next date the matter may proceed



for further hearing. Thereafter, the matter was taken up on 23.10.2019. On the said date learned Senior Counsel for the respondents prayed for extension of time to file counter affidavit. As prayed, this Court extended the time for filing counter affidavit by another two weeks. The matter was directed to be listed today. During this period neither any counter affidavit was filed nor any step has been taken to file an application for extension of time.

No plausible reason has been shown as to why despite indulgence granted by this Court the counter affidavit has not been filed.

Learned counsel for the petitioner submits that in terms of the order dated 22.06.2019 passed by the Certificate Officer in Certificate Case No. 6/2018-19 the petitioner had deposited 25% of the requisition amount under bonafide belief that the respondents shall abide by the order of the Certificate Officer and would restore the electricity connection of the petitioner. After the petitioner had deposited the amount of Rs. 20,21,000/- as per the order of the Certificate Officer which fact is mentioned in Annexure '4' to the writ application, the Electrical Executive Engineer vide his Letter No. 1652 dated 25.07.2019 (Annexure '6' to the writ application) acknowledged



the application of the petitioner and communicated him the sanction of contract demand 750 KVA load under tariff HTS-1 on supply system of 11 KV on the given terms and conditions mentioned in the letter as contained in Annexure '6'. Following the said communication, as required the petitioner deposited the initial security money of Rs. 24,66,537/- with the respondents but thereafter the respondents have maintained a complete silence and are not taking further steps towards execution of the agreement. Thus, the grievance of the petitioner is that on both counts it is because of the inaction on the part of the respondents, the petitioner is unable to get restored his electricity connection and even in this case the respondents are not allowing the things to proceed.

Mr. Vinay Kirti Singh, learned Senior Counsel for the respondents has taken a stand at this stage in course of his oral submission that the Certificate Officer had no authority in law to direct the respondents to restore the electricity connection, therefore, the respondents would not be bound by the order passed by the Certificate Officer.

Learned Senior Counsel has further taken a stand that while issuing the Letter No. 1652 dated 25.07.2019 the Electrical Executive Engineer, Electric Supply Division, Ara



had not obtained approval of the head office. Learned Senior Counsel is, however, not controverting the fact that the Electrical Executive Engineer was within his authority in sanctioning the contract demand and issuance of the communication dated 25.07.2019.

No plausible reason has been shown to this Court either for not proceeding with the matter by the Electrical Executive Engineer, Ara or for not filing the counter affidavit.

In the given facts and circumstances of the case, where this Court finds that admittedly the respondents have accepted the amount of Rs. 20,21,000/- under cover of the letter of the petitioner contained in Annexure '4' to the writ application clearly saying that he was depositing the amount in terms of the order of the Certificate Officer then at this stage, the respondents would not be acting fairly and justifiably in taking a plea that they would not abide by the order of the Certificate Officer. The respondents have with their open eyes accepted the order and the amount paid by the petitioner and have appropriated the same. The respondents have themselves communicated the petitioner for depositing the security money for fresh connection which also the petitioner has deposited and these things *prima-facie* show the bonafide of the petitioner



and even in course of argument learned counsel for the petitioner submits that the petitioner is ready to abide by any order of the respondents to pay the balance amount of arrear in few installments only and in fact a prayer was made even before the Certificate Officer but because of the inaction of the respondents that the petitioner has not been able to pay the balance amount as the respondents have not come out with their stand.

At this stage, learned Senior Counsel for the respondents submits that the General Manager (Revenue), South Bihar Power Distribution Company Limited has informed the Electrical Executive Engineer, Electric Supply Division, Ara to request the Certificate Officer to fix five monthly installments in terms of the direction of the regulatory authority.

Be that as it may, this Court is of the considered opinion that having accepted 25% of the amount in terms of the order of the Certificate Officer and proceeded with the sanction of new electric connection for which the petitioner has already deposited the security amount which is a substantial amount for any business entity, the respondents must proceed to grant a fresh connection in terms of the communication as contained in Annexure '6' to the writ application.



The petitioner undertakes to pay the outstanding amount in terms of the installments which will be fixed ultimately by the Certificate Officer after hearing the parties.

In any case the necessary formalities towards providing the new connection in terms of Annexure '6' be completed within a period 15 days from today.

The writ application, thus, stands disposed off.

(Rajeev Ranjan Prasad, J)

vats/ved

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