

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3383 of 2011

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Bharti Infratel Limited, a company registered under the Companies Act, having its registered office at Aravali Crescent, 1, Nelson Mandela Road, Vasant Kunj, Phase-II, New Delhi and Circle Office at 3rd Floor, Uma Complex, frazer Road, Patna through its authorised signatory Pradeep Faujdar, son of Late Sri Khajan Singh, resident of Jagat Amarawati Apartment, Bailey Road, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Finance, Govt. of Bihar, Patna.
2. The Commissioner, Commercial Tax Department, Patna.
3. The Deputy Commissioner, Commercial Tax Department, Patliputra Circle, 4th Floor, Pant Bhawan, Baily Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gopal Jain, Advocate.
For the Respondent/s : Mr. Vikash Kumar, SC 11.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 09-12-2020

The petitioner has prayed for the following
relief(s):-

“ (i) An appropriate writ/order/direction in the nature of prohibition prohibiting the respondent authorities from continuing with the present proceedings in pursuance of notice dated 27/12/2010 (as contained in Annexure- 1) issued by the respondent no.2



Deputy Commissioner, Commercial Tax Dept., and inspection report dated 27/01/11 whereby & whereunder proceeding has been initiated to assess the liability of the petitioner company under Section 3 of the Bihar State Electricity Duty Act, 1948 (herein after mentioned as the Act) as being wholly without jurisdiction and illegal may be issued.

(ii) An appropriate writ/ order/ direction in the nature of certiorari for quashing the proceeding and consequent notice dated 27/12/2010 (as contained in Annexure- 1) issued by the respondent no.2 Deputy Commissioner, Commercial Tax Dept., whereby & whereunder proceeding has been initiated to assess the liability of the petitioner company under Section 3 of the Bihar State Electricity Duty Act, 1948 (herein after mentioned as the Act) as being wholly without jurisdiction and illegal may be issued.

iii) An appropriate writ/ order / direction in the nature of Mandamus directing the respondents not to take any coercive step for realization of electricity duty under the provision of the Bihar Electricity Duty Act during the pendency of the present writ application.

(iv) To any other relief or reliefs for which the petitioner is entitled.”

It is not in dispute that the impugned action is



based on the notification bearing SO No. 14 dated 4th March, 2005. It is also not in dispute that the validity of the said Notification, subject matter of adjudication of the present *lis*, was struck down by a co-ordinate Bench of this Court vide decision rendered in **Bihar Sugar Mills Association, a branch of India Sugar Mills Association, New Delhi & Ors. Vs. The State of Bihar & Ors; 2009(4) PLJR416**.

It is also not in dispute that assailing the same, the State preferred an Appeal before Hon'ble the Apex Court, bearing Civil Appeal No. 2570 of 2010, titled as **State of Bihar & Ors. vs. Bihar Sugar Mills & Ors.**, which, on account of certain intervening developments, was disposed of along with several other analogous cases in the following terms:

“All the civil appeals stand dismissed as having become infructuous and all the transferred cases are disposed of in the terms of the signed order.

Till further order is passed by the High Court, the interim order will continue.”

Undisputedly, the substratum of the present impugned action stands taken away, in view of subsequent notification issued by the State.

As such, we dispose of the present petition making the decision rendered in **Bihar Sugar Mills Association** (supra)



binding the parties, reserving liberty to the State to initiate action in terms of the subsequent legislation.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	15.12.2020
Transmission Date	

