

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.377 of 2019

In

Civil Writ Jurisdiction Case No.10224 of 2013

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1. South Bihar Power Distribution Company Limited, through its managing Director, (Formerly known as Bihar State Electricity Board) Vidut Bhawan, Bailey Road, Patna.
 2. The Electrical Executive Engineer, Electrical Supply Division, Fatuha.
 3. The Assistant Electrical Engineer, Electrical, Supply Sub-Division, Didargan, Patna.

... .. Appellant/s

Versus

1. The State of Bihar through Energy Secretary, Energy Department, Patna.
2. The Appellate Authority-cum-Electrical Inspector Electrical Inspectorate, South Bihar, Bailey Road, Patna.
3. M/s Jyoti Moulders Private Limited, Birla Mandir Road, Patna through its Director, Mr. Vikram Banka Son of Sri Prakash Chandra Banka, Mohammadpur, Kothia, Didarganj, P.S.- Didarganj, District- Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Vinay Kirti Singh, Sr. Advocate Mr. Vijay Kr. Verma, Advocate Mr. Akhileshwar Singh
For the Respondent/s	:	Mr. Suraj Samdarshi, Advocate Mr. Ranjan Prakash, Advocate Mr. Shankar Kumar, AC to AAG 7

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 03-02-2021

We have heard learned counsel for the parties and also perused the records.

We are of the considered view that no case for interference is made out in the present appeal. We are in agreement with the submission of learned counsel for the



appellant that the order does not deal with all the contentions arising for consideration. However, we do not find any infirmity with the final conclusion in dismissing the writ petition.

We are dealing with a case where an FIR was registered against the respondent no. 3, for allegedly having committed theft of electricity. Pursuant thereto, challan was presented and, as on date, the respondent no. 3 stands acquitted against which, an appeal stands preferred.

However, the Electricity Act, 2003 (hereinafter referred to as the 'Act') provides mechanism for dealing with the civil liability of persons indulging into such activities.

Part XII, Part XIV and Part XV of the Act provides a complete mechanism for dealing with such eventualities. By virtue of Section 126 of the Act, if on an inspection of any place or premises, it is found that the equipments, gadgets, machines or devices is connected or used unauthorisedly, the officer in-charge is entitled to provisionally assess to the best of his judgment, the electricity charges payable by such persons.

An appeal arising therefrom lies before the Appellate Authority by virtue of Section 127 of the Act. We notice that the authorities, by virtue of such provisions, passed the appellate order dated 23rd August, 2011 (Annexure-1) as also



the order dated 11.07.2011, passed by the Assessing Authority, (Annexure-3) appended to the writ petition.

Learned Single Judge rightly held that the writ petitioner has got remedy under the special statute, though reference of the provisions is not made in the order.

Learned counsel for the respondent no. 3 invites our attention to the provision of Section 154 of the Act and, more specifically, Sub-sections (5) and (6) thereof. Also, the decision rendered by a Co-ordinate Bench of this Court in 2012(2) PLJR 229 titled as Mosmat Swaran @ Swaran Manraw Vs. The State of Bihar & Anr.

The Act itself provides for a complete mechanism of assessment of the dues as also determination of civil liabilities under the Act (Section 154). We also notice that further mechanism has been provided for preferring an appeal/revision and review under Sections 156 and 157 of the Act.

The issue pertains to the year 2011. As such, we dispose of the present appeal with a direction to the appropriate authority constituted under the Act to decide the application as and when filed by the petitioner, expeditiously and preferably within a period of six months.



Interlocutory Application(s), if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

anil/-

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CAV DATE	
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