

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10024 of 2022

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Asian Plywood Industries Private Limited, a company incorporated under the companies act, through its Managing Director, Brajbhushan Singh, aged about 54 years (male), son of Late Ramnath Singh, Resident of Mohalla 221, Gali Sankhiya 2, Rajpur Nagar, P.O. and P.S. Industrial Area, Hajipur, District Vaishali Bihar - 844101.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Energy, Government of Bihar, 8 Daroga Rai Path, Patna - 800001.
2. The Secretary, Department of Energy, Government of Bihar, 8 Daroga Rai Path, Patna - 800001.
3. North Bihar Power Distribution Company Ltd, through the Managing Director, Second Floor, Vidyut Bhawan, Bailey Road, Patna 800001.
4. The Managing Director, North Bihar Power Distribution Company Ltd, Second Floor, Vidyut Bhawan, Bailey Road, Patna 800001.
5. The Electrical Executive Engineer, Electric Supply Division, Hajipur (Vaishali).
6. The Assistant Electrical Engineer, Hajipur Industrial Estate.
7. The Joint Electrical Engineer, Hajipur Industrial Estate.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Suraj Samdarshi, Advocate
Mr. Avinash Shekhar, Advocate
Mr. Ranjan Prakash, Advocate

For the Respondent/s : Mr. Subhash Pd. Singh, GA 3
Mr. Vinay Kirti Singh, Sr. Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/Hon'ble Judges through Video Conferencing from their residential offices/residences. Also the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

Date : 05-08-2022

Heard learned counsel for the parties.



Petitioner has prayed for the following relief(s):-

- i) To issue an appropriate writ order or direction in the nature of *mandamus* commanding the Respondent North Bihar Power Distribution Company Ltd to grant a fresh electricity connection to the petitioner at its unit located at Hajipur Industrial Area, Vasihali.
- ii) This Hon'ble Court may adjudicate and hold that the action of the Respondents in rejecting/keeping the application of the petitioner for grant of fresh electricity connection on hold on account of the previous dues is completely arbitrary, illegal and unreasonable in nature.
- iii) This Hon'ble Court may further adjudicate and hold that the Respondents are duty bound to grant a fresh electricity in terms of section 43(1) of the Electricity Act, 2003 within the stipulated time frame considering the fact that the realisation of previous dues was stayed by the Learned Sub-Judge - V - Vaishali, in Title Suit no. 291 / 1999 vide order dated 12.06.2000.
- iv) This Hon'ble Court may further adjudicate and hold that the Respondents cannot refuse to grant electricity connection to an applicant on account of previous dues on the premises unless an opportunity is afforded to present its case and a reasoned order is passed by an officer as designated by the licensee, in accordance with the third proviso of the Clause 4.1 of the Bihar Electricity Supply Code, 2007.
- v) This Hon'ble Court may further adjudicate and hold that a fresh electricity connection can be denied on the ground of



arrears of previous “dues” only if alleged dues has been ascertained, quantified and statutorily determined and is not subject to any proceeding or stayed by a competent court.

- vi) This Hon’ble Court may further adjudicate and hold that denial of an electricity connection is a gross infringement of the right to carry out trade and profession guaranteed to the petitioner under Article 19 of the Constitution of India.
- vii) This Hon’ble Court may further adjudicate and hold that action of the Respondents in this matter smacks of arbitrariness and unreasonableness and is thus bad in law.
- viii) To grant any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.

There is a dispute with regard to the exact amount due and payable by the petitioner towards the dues payable to the Electricity Department.

According to the Revenue, the total amount due and payable, as per the certificate case, is Rs. 17,00,000/- (approximately). Whereas, according to the petitioner, it is Rs. 7.89 lacs (approximately) as payable by the last bill.

It is brought to our notice that proceedings with regard to the disputed amount are pending adjudication before the various authority.

Shri Suraj Samdarshi, learned counsel for the petitioner, prayed that without prejudice and independent



thereof, only to ensure that the petitioner's unit becomes operational and functional and subject to the outcome of such proceedings, petitioner is ready and willing to deposit the entire amount disputed or otherwise, which stands quantified as Rs. 17,15,125.29/- as on 29.06.1994 determined vide Certificate Case No. 2/94-95. This amount petitioner is ready and willing to deposit in two installments within a period of 45 days from today i.e. first installment within 15 days and the balance amount within the remaining period.

Shri Vinay Kirti Singh, learned senior counsel for the respondents, states that upon deposit of the first installment, electricity connection shall be restored, subject to the petitioner depositing the balance amount within the aforesaid remaining period.

As such, instant petition is disposed of on the following mutually agreeable terms:-

(i) Petitioner shall deposit a sum of Rs. 17,15,125.29/- in two equated installments spread over a period of 45 days;

(ii) Upon deposit of the amount of first installment, petitioner's electricity connection shall be restored. However, in the event of failure on the part of the petitioner to



deposit second installment, said connection shall be disconnected automatically without any notice or reference to the petitioner;

(iii) The amount deposited shall be without prejudice to the outcome of the proceedings.

The petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	11.08.2022
Transmission Date	

