

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 2215 of 2021

M/S K M Sugar Mills Ltd Factory and Works, PO Motinagar 224201 Dist- Ayodhya (UP), through Prithu Srivaastav S/o Vasith Narayan Srivastava aged about 41 years, R/o Vashundhra Enclave-1, NH- 08, Anmol Residency, Indra Nagar, Lucknow, UP- 226016 Presently working as Assistant General Manager (Administration), K M Sugar Mills Ltd, as authorised signatory.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt of Bihar, Patna.
2. The Principal Secretary, Department of Energy, Govt of Bihar, Patna.
3. The Principal Secretary, Department of Excise and Prohibition, Govt of Bihar, Patna.
4. The North Bihar Power Distribution Company through the Managing Director, Vidyut Bhawan, Bailey Road, Patna.
5. The Managing Director, North Bihar Power Distribution Company, Vidyut Bhawan, Bailey Road, Patna.
6. The Superintending Engineer, Electrical, The North Bihar Power Distribution Company, Electric Supply Division, East Champaran, Motihari.
7. The Executive Engineer, Electrical, The North Bihar Power Distribution Company, Electric Supply Division, East Champaran, Motihari.
8. The Sub Divisional Officer (Revenue)/Revenue Officer, The North Bihar Power Distribution Company, Electricity Supply Division, East Champaran, Motihari.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	M/s Rajeev Ranjan, Vikas Kumar, Advocates
For the S t a t e	:	Mr Kinkar Kumar, SC IX with Ms Deepika Sharma, AC to SC IX
For the N B P D C L	:	Mr Vinay Kirti Singh, Sr Advocate with M/s Vijay Kr Verma, Akhileshwar Singh, Advocates



**CORAM: HONOURABLE MR JUSTICE CHAKRADHARI SHARAN SINGH
and
HONOURABLE MR JUSTICE MADHURESH PRASAD**

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE CHAKRADHARI SHARAN SINGH)

Date : 11-04-2022

A counter affidavit is being filed on behalf of Respondent-North Bihar Power Distribution Company Limited (for brevity, *NBPDCL*), which is taken on record.

2 Heard learned counsel for the parties.

3 The petitioner is seeking a direction in the present writ application to refund a sum of Rs 7,90,274/- which, according to him, has arbitrarily been adjusted by the NBPDCL from his security deposit of Rs 11,37,000/- and the interest accrued thereon.

4 This is an admitted fact that upon enactment of the Bihar Excise (Amendment) Act, 2016, which came into force with effect from 30.03.2016, the petitioner was forced to apply for disconnection of the electric connection to its manufacturing unit. The electricity supply was, admittedly, disconnected. The dispute, in the present writ application, apparently relates to the period 01.04.2016 to November, 2016.

5 In a counter affidavit, filed on behalf of the State of Bihar, sworn by its Chief Secretary, it has been stated that vide letter dated 10.02.2022 issued under the signature of Chairman



-cum- Managing Director, Bihar State Power Holding Company Limited, a request has been made for grant of approval in respect of decision taken on 09.02.2022 for refund of the fixed charges of the petitioner-Company for the period, April, 2016 to November, 2016 and also for refund of fixed charges imposed on other consumers of NBPDC and South Bihar Power Distribution Company Limited who had to compulsorily close their factories in view of enactment of Bihar Excise (Amendment) Act, 2016, published in the official gazette on 31.03.2016. It has further been stated in the said affidavit that in principle, it has been agreed to grant approval to the decision taken by the Distribution Companies and for that, appropriate decision/order would be passed at the earliest.

6 In the counter affidavit, filed today on behalf of NBPDC, it has been stated that upon calculation, a total sum of Rs 7,50,810/- had been paid to the petitioner on 02.04.2022 through a cheque, which has been received by the petitioner in the presence of his learned counsel. The calculation of the determination of the amount has been brought on record by way of Annexure H series to the supplementary counter affidavit. It appears from the said annexure that the petitioner has received the amount without raising any objection.



7 Learned counsel for the petitioner has attempted to persuade this Court that the determination of the amount by NBPDCCL, payable to the petitioner, is incorrect.

8 We are not inclined to go into such aspect of the matter as the petitioner has received the amount without raising any objection.

9 In the facts and circumstances of the case, however, we dispose of this writ application with a liberty to the petitioner to make a representation before the Managing Director, NBPDCCL with calculation of the arrears including the interest, based on which it is entitled to more refund in accordance with the policy decision of the State Government. If such representation is filed, the Court expects that the Managing Director shall consider the same and dispose it of within two months from date of making of such representation.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.04.2022
Transmission Date	NA

