

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15869 of 2014

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M/s Hitachi Refrigeration having its place of business at Deona Industrial Area, P.O. Tilrat, P.S.- Barauni, District-Begusarai through its proprietor Shri Dinanath Jha S/o Late Jagdeo Jha.

... .. Petitioner/s

Versus

1. The North Power Distribution Company Ltd. Vidyut Bhawan Bailey Road, Patna through its managing Director.
2. The Electrical Superintending Engineer, Samastipur.
3. The Electrical Executive Engineer, Electric Supply Sub Division, Barauni, Begusarai.
4. The Assistant Electrical Engineer-cum-Assessing Authority, Electric Supply Sub Division, Barauni, Begusarai.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 23156 of 2018

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The North Bihar Power Distribution Company Ltd. through the Law Officer, Bishundeo Prasad Gupta, Son of Sri Kant Lal Sah, Resident of Bihar State Electricity Board Colony, Shashtri Nagar, Police Station- Shashtri Nagar, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Department of Energy, Government of Bihar, Patna.
2. The Additional District Magistrate, A.D.M. cum Appellate Authority having office at Electrical Inspectorate, Begusarai, Patna.
3. M/s Hitachi Refrigerator through its proprietor Sri Dina Nath Jha, resident of Village Industrial Area Devna, Police Station- Barauni, District- Begusarai.

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 15869 of 2014)

For the Petitioner/s : Mr. Gautam Kumar Kejriwal, Adv.

Mr. Atal Bihari Pandey, Adv.

Mr. Alok Kumar Jha, Adv.

Mr. Mukund Kumar, Adv.

For the State : Mr. Vinay Kirti Singh, Adv.

For the Power Company : Mr. Anand Kumar Ojha, Adv.



Mr. Ashok Kumar Karan, Adv.

Mr. Abhishek Roy, Adv.

(In Civil Writ Jurisdiction Case No. 23156 of 2018)

For the Petitioner/s : Mr. Anand Kumar Ojha

For the State : Mr. Ashutosh Kumar Upadhyaya, AC to SC-9.

For the Respondent : Mr. Gautam Kejriwal, Adv.

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

13 12-09-2023

Re. C.W.J.C. No. 23156 of 2018

Heard the parties.

2. The present writ petition has been filed for the following relief:-

“That the petitioner Power Company prays for quashing the order contained in Letter No. 163 dated 20.08.2014 passed by the Appellate Authority in Appeal No. 23/2013-14 on the ground that exercise of jurisdiction by the Appellate Authority has been contrary to the scheme of Electricity Act, 2003 and Bihar State Electricity Supply Code, 2007.”

3. Learned counsel appearing on behalf of the petitioner has stated that the order under challenge is arbitrary, bad and has been passed without jurisdiction and the same is liable to be set aside. Learned counsel has stated that pursuant to the direction of this Hon’ble Court in CWJC No. 2124 of 2013 dated 25.11.2013, the authorities have already passed a fresh Final Assessment Order on 30th January, 2014. The appellate



authority while dealing with the Final Assessment Order dated 18.12.2010 which was already set aside by the Hon'ble High Court in CWJC No. 2124 of 2013 dated 25.11.2013 has set aside the Final Assessment order dated 30.01.2014 which was not the subject matter of the appeal and directed the authority to pass fresh Final Assessment Order. Learned counsel has stated that the appeal was filed against the Final Assessment Order dated 18.12.2010 and the same already set aside by the Hon'ble High Court in CWJC No. 2124 of 2013. That the appeal filed by the Respondent No. 3 herein had already become infructuous as the Final Assessment Order dated 18.12.2010 was already set aside by the Hon'ble High Court. That the appellate authority did not have any jurisdiction to pass an order with respect to the Final Assessment Order dated 30.01.2014 which was not the subject matter of the appeal. Therefore, learned counsel prayed this Court to allow the present writ petition.

4. Learned counsel appearing on behalf of the Respondent No. 3 has fairly stated that the order passed by the appellate authority dated 20.08.2014 which is impugned in the present writ petition was wrongly passed and stated that the appellate authority did not have any jurisdiction to pass the said order. Learned counsel has fairly stated that the writ petition



filed by the petitioner may be allowed by setting aside the order dated 20.08.2014 passed by the appellate authority.

5. However, the learned counsel for the petitioner has stated that the petitioner has spent nearly nine years pursuing his remedies before this Hon'ble High Court and that he may be given liberty to challenge the Final Assessment Order dated 30.01.2014 before the appellate authority without the question of limitation being raised.

6. Having regard to the peculiar circumstances of this particular case, the impugned order passed by the appellate authority dated 20.08.2014 is set aside, however, granting liberty to the Respondent No. 3 to prefer an appeal against the Final Assessment Order dated 30.01.2014 before the concerned appellate authority. It is made clear that this Court has not dealt with the merits of the case and has merely granted liberty to the petitioner to file an appeal without the question of limitation being raised as the petitioner has spent considerable time in pursuing the case before this Hon'ble Court.

7. The petitioner shall be obligated to comply with the other statutory requirements prescribed under Section 127 of the Electricity Act for entertaining his appeal.

8. With the above observations, the Writ Petition



stands allowed to the extent indicated.

Re. C.W.J.C. No. 15869 to 2014

Having regard to the order passed in CWJC No. 23156 of 2018, the prayer sought for in the present writ petition does not survive and has become infructuous.

2. The CWJC is accordingly dismissed as having become infructuous.

(A. Abhishek Reddy , J)

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