

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14127 of 2016

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Arun Kumar Son of Basant Prasad resident of village - Akhlaspur, P.S.
Bhabhua, District - Kaimur

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Executive Electrical Engineer, South Bihar Power Distribution Co. Ltd.
Bihar State Electricity
3. The Assistant Electrical Engineer, Electrical Supply Sub Division, Bhabhua
4. The Junior Electrical Engineer, Electric Supply Section, Bhagwanpur,
Bhabhua

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar Ghosarvey, Advocate
For the Respondent/s	:	Mr. Vijay Kumar Verma, Advocate
		Mr. Anand Kumar Ojha, Advocate
		Mr. Ashok Kumar Ratna, Advocate
		Mr. Akshansh Shankar, Advocate
		Mr. Shankar Kumar, Advocate

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL JUDGMENT

Date : 04-10-2024

1. The Writ petition is filed to direct the respondent authorities to pay the commission from June 2014 to January 2015, on the amount which was collected by the petitioner from the consumer of Kharenda and Pasai Panchayat having been appointed as “ Franchise of South Bihar Power Distribution Company Limited ”. to collect the revenue of the said *Panchayats* on behalf of the South Bihar Power Distribution Company Limited. Further to direct the respondent authorities to calculate commission of the amount deposited by the petitioner



from March 2014 to January 2015. Further to direct the authorities to pay an interest @ 18% per annum on the dues of the commission of the petitioner.

2. The brief facts culled out of the Writ petition is that the Electricity Board introduced a Scheme known as “ Rural Franchise Scheme ” in order to collect the revenue and increase the revenue of the Electricity Board.

3. The petitioner applied for the Franchise of two *panchayats* namely, Kharenda and *Pasai Panchayat* under Bhagwanpur Section of Electric Supply Sub-Division Bhabhua, for which the petitioner deposited a sum of Rs. 200/- to the South Bihar Power Distribution Company Limited on 12.03.2014.

4. Basing on the application of the petitioner, the Assistant Electrical Engineer, Electric Supply Sub-Division Bhabhua has issued Letter No. 186 dated 13.03.2014, directing the petitioner to deposit 10% of the assessed amount as security amount.

5. The petitioner in order to take Franchise deposited a sum of Rs. 3977/- vide D.D. No. 170964 dated



15.03.2014 on 20.03.2014. Later an agreement was entered into between the petitioner and the South Bihar Power Distribution Company Limited. on 20.03.2014. The petitioner started his work as a Franchise for the two *Panchyats* assigned to him and submitted an application on 14.05.2014 to the 2nd respondent requesting him to furnish the guidelines, in respect of mode of payment of the commission on the amount collected by the petitioner.

6. Pursuant to the agreement, the petitioner has conducted the following works i.e. Billing, Meter Reading, as well as Collection of Bill amount. All the collected amount were deposited in the office of the Electricity Board as per the norms and condition of the agreement. Later, a news was published in the newspaper about the change of the Rules of Rural Franchise. As per the earlier scheme, the Commission has to be paid, if the collection of revenue was about 60%. But the said condition has been removed and the Franchise will get the commission, in view of collection by the Franchise from the consumer.



7. As per the petitioner, by 1st June the Franchise will get 6% commission on the collected amount and if the amount is deposited by the consumer, at the counter of officer of the Electricity Board, the Franchise will get 3% commission. Apart from the other benefits, bonus were said to be given to the Franchise, if some more conditions were followed and executed by the Franchise. The petitioner collected and deposited an amount to a tune of Rs. 20,000,0/- (twenty lakhs only) to the office of Electricity Board.

8. In the month of December 2014, the son of the petitioner suddenly fell sick and the doctor advised the petitioner to take him to the big Hospital for treatment, as son of the petitioner suffered with kidney problem. The petitioner directed his brother and staff to look after the Franchise as he has to accompany his son.

9. It is further contended in the Writ petition that the petitioner required more amount for the treatment of his son and when he returned to the village he came to know that FIR was lodged against him.



10. On 11.01.2015, a case was registered against the petitioner vide Bhabhua P.S. Case No. 18 of 2015 for the offence punishable under Section 409 of IPC alleging that the petitioner has misappropriated an amount of Rs. 3,78,504/-, as it was collected by him from the customers and was not deposited in the account of Electricity Board.

11. Pursuant to the registration of the case, the petitioner deposited Rs. 50,000/- on 19.07.2016. The contents of the Writ petition further disclose that the financial condition of the petitioner has become more worse as he has incurred huge amounts towards the treatment of his son and that he never misappropriated any amount of the South Bihar Power Distribution Company Limited. and, therefore, prayed to direct the authorities to pay the commission for amount collected by the petitioner during period from June 2014 to January 2015 and to calculate the commission on the amount deposited by the petitioner from March 2014 to June 2015 and to pay an interest @ 18% per annum on the commission which the



petitioner is supposed to receive from the South Bihar Power Distribution Limited.

12. A detailed Counter Affidavit was filed by the respondent Power Distribution Company Limited and its officials denying all the allegations made in the petition and admitting the allotment of Franchise to the petitioner for the two Panchayats.

13. The Counter Affidavit reveals that the petitioner has executed an agreement under Rural Revenue Franchise Scheme, 2013 vide Agreement No. 61 dated 20.03.2014 with the respondent company. The Counter Affidavit further disclose that the petitioner has neither submitted the collected amount before the concerned authority namely, Assistant Electrical Engineer, Electrical Supply Division Bhabhua nor submitted bill in proper Proforma as prescribed in the Franchise Scheme and that the petitioner has only submitted application for payment of commission. In the absence of bill in proper Proforma, the verification of work and calculation of commission could not be possible for the authorities and



the Counter Affidavit also disclose that the petitioner neither deposited the calculated amount nor submitted the bill in the proper Proforma for which the authorities are constrained to register criminal case against the petitioner.

14. Further, it is contended that the Writ petition itself is not maintainable as there is an alternative remedy available for the petitioner. In Clause 32 of Rural Revenue Franchise Scheme, 2013, there is a Dispute Resolution Forum before which the petitioner can avail or file the complaint for redressal of his grievance. The petitioner instead of availing the said remedy has approached this Court.

15. Heard arguments of the Learned counsel for the petitioner as well the Learned counsel for the respondents.

16. On perusal of the entire record, it is evident that there is a Dispute Resolution Forum from which the petitioner can avail his remedy by filing a complaint before the concerned Executive Engineer for redressal of



the dispute. Instead of approaching the Dispute Resolution Forum, the petitioner filed the present Writ petition.

17. Therefore, the Writ petition is disposed of directing the petitioner to avail the alternative remedy before the Dispute Resolution Forum, within a period of 4 weeks from the date of receipt of this order and further the Dispute Resolution Forum shall disposed of the case within three months from the date of filing of filing the application/ complaint by the petitioners.

18. With the aforesaid observation, the Writ petition is disposed of.

(G. Anupama Chakravarthy, J)

Manishkr/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	

