

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1452 of 2015

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M/s Patwari Steels Pvt. Ltd. a Company incorporated under the provisions of the Companies Act, 1956 a Company incorporated under the provisions of Companies Act, 1956 having its place of business at G1-11, Fatuha Industrial Area, Fatuha, District Patna through one of its Directors, Subhas Kumar Patwari, S/o late Satya Narayan Patwari, Resident of Road No. 6A, Rajendra Nagar, P.S. Kadamkuan, District Patna

... .. Petitioner/s

Versus

1. The South Bihar Power Distribution Company Ltd. having its Head Office at Vidyut Bhavan, Bailery Road, Patna through its Managing Director
2. The Chief Engineer - Commercial, South Bihar Power Distribution Company Limited, Vidyut Bhavan, Bailey Road, Patna
3. The Electrical Executive Engineer, HT Cell, South Bihar Power Distribution Company Limited, Vidyut Bhavan, Bailey Road, Patna

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 1785 of 2015

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M/s Dadiji Steels Ltd. a Company incorporated under the provisions of the Companies Act, 1956 having its office at 311, Narayan Plaza, Exhibition Road, P.S. Gandhi Maidan, Town & District Patna through its Director Ramesh Chandra Gupta S/O Late Sri Ram Gupta Resident of 502, Santosha Complex, Bander Bagicha, Off. Frazer Road, P.S. Kotwali, Town and Distt.- Patna-800001

... .. Petitioner/s

Versus

1. The South Bihar Power Distribution Company Ltd. having its Head Office at Vidyut Bhavan, Bailey Road, Patna through its Managing Director
2. The Chief Engineer - Commercial, South Bihar Power Distribution Company Limited, Vidyut Bhavan, Bailey Road, Patna
3. The Electrical Executive Engineer, HT Cell, South Bihar Power Distribution Company Limited, Vidyut Bhavan, Bailey Road, Patna

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 1801 of 2015

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M/s J.G. Foundry Ltd. a Company incorporated under the provisions of the Companies Act, 1956 having its office at Gandhi Setu Link Road, Agamkuan, District Patna through its Managing Director Girija Shankar



Prasad, S/O Late Chunni Lal Kasera R/O Belwarganj, P.O-Gulzarbagh, P.S-
Alamganj, Distt.-Patna-800007.

... .. Petitioner/s

Versus

1. The South Bihar Power Distribution Company Ltd. and Ors Head Office At
Vidyut Bhawan, Bailey Road, Patna through its Managing Director
2. The Chief Engineer - Commercial, South Bihar Power Distribution
Company Limited, Vidyut Bhavan, Bailey Road, Patna
3. The Electrical Executive Engineer, HT Cell, South Bihar Power Distribution
Company Limited, Vidyut Bhavan, Bailey Road, Patna

... .. Respondent/s

Appearance :

(In all the three Writ Petitions)

For the Petitioner/s	:	M/s Mohit Agrawal Lokesh Kumar, Rahul Kumar Vikash Khanna, Advocates
For the Respondent/s	:	M/s Vinay Kirti Singh, Sr. Advocate Akhileshwar Singh, Venkatesh Kirti, Advocates

CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL JUDGMENT
Date : 13-12-2024

1. As identical issues are involved in all the
Writ applications, they were heard and considered
together and as such common order is being passed.

2. For better appreciation of the case, the reliefs
prayed for in each of the Writ petition are quoted herein
below:

Re. CWJC No. 1452 of 2015

*“i) For quashing the letter dt.
2.1.2015 vide letter No. 87 issued by the
Respondent Electrical Executive Engineer,*



H.T. - Cell of the Respondent South Bihar Power Distribution Company Limited by which it has purported to have issued a 15 days' notice of disconnection under Section 56 of the Electricity Act to make payment of Rs. 39,22,030/- to save from disconnection;

ii) For quashing the supplementary bill dt. 25.9.2014 raised for the first time for a sum of Rs. 37,13,782/- purporting to be for the period 10.1.2008 to 30.6.2008 pursuance to the objection raised by Comptroller & Auditor General (Audit) and in the light of the letter No. 2058 dt. 20.08.2008 as being wholly illegal, without jurisdiction;

iii) For restraining the Respondents from taking any coercive measure for disconnection of the line of the Petitioner; and/or for any other relief(s) for which the Petitioner may be found entitled to in the facts and circumstances of the present case.”

Re. CWJC No. 1785 of 2015

“i) For quashing of the order dt. 5.1.2015 passed by the Chief Engineer - Commercial, South Bihar Power Distribution Company Limited, communicated vide letter No. 29 dt. 6.1.2015



by which the Respondent has directed the Petitioner to deposit the provisional bill dt. 25.9.2014 for a sum of Rs. 31,27,594/- as being wholly illegal and without any authority of law;

ii) For quashing the letter dt. 2.1.2015 vide letter No. 84 issued by the Respondent Electrical Executive Engineer, H.T. - Cell of the Respondent South Bihar Power Distribution Company Limited by which it has purported to have issued a 15 days' notice of disconnection by relying on the provision of Section 56 of the Electricity Act even before deciding the issue as to whether the amount raised by supplementary bill dt. 25.9.14 was at all payable by the Petitioner or not;

iii) For quashing the supplementary bill dt. 25.9.2014 raised for the first time purporting to be for the period 28.12.2007 to 27.6.2008 as being wholly illegal, without jurisdiction; and/or for any other relief(s) for which the Petitioner may be found entitled to in the facts and circumstances of the present case.”



Re. CWJC NO. 1801 of 2015

“i) For quashing the letter dt. 2.1.2015 vide letter No. 82 issued by the Respondent Electrical Executive Engineer, H.T. - Cell of the Respondent South Bihar Power Distribution Company Limited by which it has purported to have issued a 15 days' notice of disconnection under Section 56 of the Electricity Act to make payment of Rs. 10,32,375/- to save from disconnection;

ii) For quashing the supplementary bill dt. 25.9.2014 raised for the first time for a sum of Rs. 10,32,375/- purporting to be for the period 28.12.2007 to 27.6.2008 pursuance to the objection raised by Comptroller & Auditor General (Audit) and in the light of the letter No. 2058 dt. 20.08.2008 as being wholly illegal, without jurisdiction;

iii.) For restraining the Respondents from taking any coercive measure for disconnection of the line of the Petitioner; and/or for any other relief(s) for which the Petitioner may be found entitled to in the facts and circumstances of the present case.”



3. During the course of pendency of these Writ petitions, by way of filing Interlocutory Application(s), the petitioner(s) has sought amendment, by way of additional reliefs in the relief portions i.e. paragraph No. 1 of the main Writ petition(s), which are as follows:

I.A. No. 2 of 2023 in CWJC No. 1452 of 2015)

iv) For direction upon the Respondents to refund an amount of Rs. 37,13,782/- deposited by the Petitioner vide Cheque No. 853927 dated 21.02.2015, Under Protest vide letter dated 21.02.2015, against which Receipt bearing No. 406403 dated 21.02.2015 was issued by the Respondent against the impugned Supplementary Bill dated 25.09.2014 (Under challenge) raised under heading "Audit Charge" for the period 10.01.2008 to 30.06.2008, during the pendency of the present Writ Petition;

(v) For direction upon the Respondents to pay interest on an amount of Rs. 37,13,782/- at the similar rate of interest being charged upon the Petitioner



for delay in payment for the period 21.02.2015 till the actual date of payment as due to threat of disconnection of electricity supply, the Petitioner was constrained to deposit the said amount under protest against the impugned supplementary bill dated 25.09.2014;

(vi) For holding that the Respondents had no jurisdiction under the Industrial Incentive Policy, 2006 to take back the incentives already disbursed in favour of the Petitioner, being the incentive of AMG/MMG promised under Clause 2(xii) of the Industrial Incentive Policy, 2006 without violation of any eligibility conditions applicable for grant of incentives under the Industrial Incentive Policy, 2006.

I.A. No. 2 of 2023 in CWJC No. 1785 of 2015)

(iv) For direction upon the Respondents to refund an amount of Rs. 34,69,556/- deposited by the Petitioner vide Cheque No.8650396 dated 17.02.2015, Under Protest, vide letter dated 17.02.2015 against the impugned Supplementary Bill dated 25.09.2014



(Under challenge) raised under heading "Audit Charge" for the period 28.12.2007 to 27.06.2008, during the pendency of the present Writ Petition;

(v) For direction upon the Respondents to pay interest on an amount of Rs. 34,69,556/- at the similar rate of interest being charged upon the Petitioner for delay in payment for the period 17.02.2015 till the actual date of payment as due to threat of disconnection of electricity supply, the Petitioner was constrained to deposit the said amount under protest against the impugned supplementary bill dated 25.09.2014;

(vi) For holding that the Respondents had no jurisdiction under the Industrial Incentive Policy, 2006 to take back the incentives already disbursed in favour of the Petitioner, being the incentive of AMG/MMG promised under Clause 2(xii) of the Industrial Incentive Policy, 2006 without violation of any eligibility conditions applicable for grant of incentives under the Industrial Incentive Policy, 2006.



I.A. No. 2 of 2023 in CWJC No. 1801 of 2015)

(iv) For direction upon the Respondents to refund an amount of Rs. 10,32,375/- deposited by the Petitioner vide Cheque No.317357 dated 21.02.2015, Under Protest, vide letter dated 21.02.2015 against the impugned Supplementary Bill dated 25.09.2014 (Under challenge) raised under heading "Audit Charge" for the period 28.12.2007 to 27.06.2008, during the pendency of the present Writ Petition;

(v) For direction upon the Respondents to pay interest on an amount of Rs. 10,32,375/- at the similar rate of interest being charged upon the Petitioner for delay in payment for the period 21.02.2015 till the actual date of payment as due to threat of disconnection of electricity supply, the Petitioner was constrained to deposit the said amount under protest against the impugned supplementary bill dated 25.09.2014;

(vi) For holding that the Respondents had no jurisdiction under the Industrial Incentive Policy, 2006 to take



back the incentives already disbursed in favour of the Petitioner, being the incentive of AMG promised under Clause 2(xii) of the Industrial Incentive Policy, 2006 without violation of any eligibility conditions applicable for grant of incentives under the Industrial Incentive Policy, 2006.

4. In view of the facts and circumstances, the prayer made in the I.A. No(s) 2 of 2023 are allowed, in all the Writ petitions aforesaid mentioned.

5. During the course of pendency of these Writ petitions, by way of filing I.A. No(s). 3 of 2024 in all the above three Writ petitions, the petitioner(s) has sought permission to implead the following parties as party respondent Nos. 4, 5, and 6 respectively in the main writ petition(s), which are as follows:

(i) The State of Bihar through the Principal Secretary, Department of Industries, Vikas Bhawan, Bailey Road, Patna

(ii) The Principal Secretary, Department of Industries, Vikas Bhawan, Bailey Road, Patna



(iii) The Director of Industries, Department of Industries, Vikas Bhawan, Bailey Road, Patna

6. Considering the reasons mentioned in the above Interlocutory Application(s) the same are allowed.

7. Registry is directed to make necessary changes in the cause title of each of Writ petition i.e. in digital as well as physical file also.

8. At the very outset, Learned counsel for the petitioner(s) contended that since these matters are squarely covered under the judgment passed by this Court in **CWJC No. 1878 of 2015 (M/s Balmukund Concast Limited Versus The Bihar State holding Company Limited & Ors.)**, these writ petitions may also be disposed of on the same terms and conditions.

9. Heard the Learned counsel for the petitioner(s) as well as the respondents. Perused the record.

10. In view of the fact that these matters are squarely covered by the aforesaid judgment, all the



three Writ petitions are allowed in light of the judgment passed in (**M/s Balmukund Concast Limited (supra)**) and accordingly, the reliefs sought for by the Writ petitioner(s) in all the three writ petitions are granted to the respective Writ petitioner(s).

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

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	N A
Uploading Date	13.12.2024
Transmission Date	

