

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17178 of 2015

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1. The South Bihar Power Distribution Company Limited through its Managing Director Vidyut Bhawan, Bailey Road, Patna.
 2. The Electrical Executive Engineer, Electric Supply Division, Danapur, Patna.
 3. Assistant Electrical Engineer, Electric Supply Sub - Divisional, Digha, Patna.

... .. Petitioner/s

Versus

1. M/s Bihar Electrical Equipments through Sri Anil Kumar Shrivastava, Son of Late Ishwar Saran Shrivastava, resident of Nasariganj, P.O. Digha, District - Patna.
2. The Consumer Grievance Redressal Forum South Bihar Power Distribution Company, Vidyut Bhawan - II, Patna.
3. The Union of India, through the Secretary, Energy Deptt.
4. The State of Bihar, through the Secretary, Energy Deptt. Bihar, Patna.
5. Bihar Electricity Regulatory Commission, through its Secretary, Patna Vidyut Bhawan- II, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Vinay Kirti Singh, Sr. Adv. Mr. Akhilesh Singh, Adv.
For the B.E.R.C.	:	Mr. Lakshman Lal Pandey, Adv. Mr. Rajani Kant Mishra, Adv.
For the State	:	Ms. Sushmita Shama, A.C. to S.C. 9

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

Date : 04-04-2024

Heard the Learned Senior counsel for the petitioner as
well as the Learned counsel for the respondents.

2. Initially, this writ petition is filed for quashing the order dated 14.11.2014 passed in Case No. 118 of 2014 by the Second respondent i.e. the Consumer Grievance Redressal Forum, South Bihar Power Distribution Company Ltd.

3. The brief facts culled out in the petition are that the petitioner no. 1 is a company registered under Companies Act and petitioners nos. 2 and 3 are the Officers of the first



petitioner. The first respondent is LTIS consumer of the first petitioner having sanctioned load of 23 HP. On 20.08.2009, the premises of the petitioner was inspected by the Special Task Force of the Bihar State Electricity Board, Patna in the presence of the representative of the consumer. During the course of inspection, the total connected load was found as 40 HP instead of 23 HP. The representative of the consumer refused to sign the inspection report. After inspection of the premises, the petitioner no. 2 served a notice on the first respondent *vide* letter no. 2692 dated 05.10.2009 asking the respondent consumer to pay Rs. 2,56,303/- as per sub-clause 3 of Annexure-7 of the supply code and also directed to deposit an amount of Rs.48,000/- as revised security for enhanced load and accordingly bill of Rs.2,56,303/- and Rs.48,000/- were issued to the petitioner. Against the said assessment order, the petitioner filed representation dated 15.10.2009 before the Electrical Executive Engineer in which he contended that the load is not 40 H.P. but it was only 23.04 H.P. and therefore requested to rectify the bill. On 09.11.2009, the consumer has also addressed the letter intimating that his line was disconnected by the department. In 2014, the consumer filed the complaint case before the C.G.R.F. for quashing the inspection report dated 20.08.2009, and also for quashing the



demand notice dated 05.10.2009, punitive bill of Rs.2,56,303/- and consequential revised security amount bill of Rs.48,000/-, further for quashing of monthly bill of September 2009 dated 16.10.2009 and as well as the legal notice dated 07.04.2014 which demands a sum of Rs.14,74,123/- and for declaration of revised 15 days disconnection notice dated 12.03.2013 “not served upon the petitioner” and for disconnection of line on 11.02.2009. Further relief sought by the consumer is that for restoration of electric line, as an interim measure subject to the decision in the case and under current charges only after reconnection based on 23 H.P. sanctioned load without arrear and without D.P.S.

4. It is pertinent to mention that after filing of the complaint case, the opposite parties and the petitioners appeared and filed their reply on 07.11.2014 which disclose that the Executive Engineer, Danapur inspected the premises of the first respondent in the presence of his representative and the representative refused to sign the inspection report and that the electric line of the respondent no. 1, was disconnected on 29.03.2013 after due service of notice under Section 56 (1) of the Electricity Act, 2003. The report also reveal that the inspection report was made under Section 126 of the Act. As per



sub-clause 7 of clause (F) of Regulation-2 of the Regulation, the Bihar Electricity Regulatory Commission had ousted the Jurisdiction of the C.G.R.F. as well as the Ombudsman in the case of Section 126, 135 to 139, 143, 152 and 161 of the Act.

5. It is specific contention of the learned counsel for the petitioner that the second respondent (Consumer Grievance Redressal Forum) is not entitled to entertain an application against the inspection report made under the provisions of Section 126 of the Electricity Act, 2003 and the impugned order dated 14.11.2014 passed by the Consumer Grievance Redressal Forum is against the provision of regulations under Sub-Clause (VII) of Clause-2 (f) of the Bihar Electricity Regulatory Commission Regulations, 2006.

6. It is also submitted by the learned counsel for the petitioner that the Consumer Grievance Redressal Forum has no power to grant relief in case of enhancement of load which comes under unauthorized use of electricity and cannot direct the licensee to charge delayed payment surcharge and the orders of the Consumer Grievance Redressal Forum are arbitrarily malafide and violative of Article 14 and 16 of the Constitution of India.

7. During the course of argument, it is submitted by the



counsel for the respondents nos. 4 and 5 that the orders of the C.G.R.F. (Consumer Grievance Redressal Forum) have been passed under Section 126 of the Act which has no jurisdiction at all to decide the matter.

8. From perusal of the orders of the C.G.R.F. it is evident that the redressal forum has entertained the complaint filed by the respondent no. 1 (M/S Bihar Electricity Equipments) and thus gone into the minute aspects of the case and decided the matter though, it has no jurisdiction to decide the matter.

9. The Consumer Grievance Redressal Forum, South Bihar Power Distribution Company, Patna has ought not to have decided the matter as it has no jurisdiction under the provisions of Section 126 of the Electricity Act.

10. In view of the above, the orders of the respondent no. 2 dated 14.11.2014 are, hereby, set aside (Annexure-1).

11. Accordingly, the writ petition is allowed.

(G. Anupama Chakravarthy, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
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