

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 1661 of 2024

M/s. Patna Steel Private Limited a Company incorporated under the provisions of the Companies Act, 1956, having its registered office at Ground Floor, Suprabhat Building, CEAT Compound, Exhibition Road, Patna - 800001, through its Director, Rishav Mandholia, aged about 31 years (Male), Son of Santosh Kumar Mandholia, resident of Flat No. 32, Krishna Kunj Apartment, Sahdev Mahto Marg, Boring Road, Patna, Bihar - 800001.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Industries, Government of Bihar, Patna.
2. The South Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna, through its Managing Director.
3. The General Manager (Revenue), South Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna.
4. The Electrical Executive Engineer, South Bihar Power Distribution Company Limited, Electric Supply Division, Fatuha, District Patna.
5. The Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna, through its Managing Director.
6. The Deputy General Manager, Patna Cluster, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Suraj Samdarshi, Adv.
	:	Mr. Avinash Shekhar, Adv.
	:	Mr. Rohit Singh, Adv.
For BIADA	:	Mr. Lalit Kishore, Sr. Adv.
	:	Mr. Ajit Kumar, Adv.
For SBPDCL	:	Mr. Vinay Kirti Singh, Adv.
	:	Mr. Kunal Tiwary, Adv.
For the Respondent/s	:	Mr. Government Advocate (11)

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

Date : 10.01.2025.

Heard the learned counsel for the parties.

The present writ petition has been filed for the following

reliefs:-

“i) For setting aside the letter no. 2221 dated 22.12.2023 issued by the respondent no. 4, by which the application of the petitioner for grant of fresh electrical connection has been denied on the ground of outstanding dues of another consumer, wherein one of the Directors of the petitioner Company is also a Director of the said Company.



ii) *For declaring the clarification given by the respondent no. 3 vide letter no. 4154 dated 21.12.2023, as being wholly misconceived and contrary to the provisions of the Bihar Electricity Supply Code, 2007.*

iii) *To hold and declare that once the amount sought to be declared as outstanding amount is stayed by the order of this Hon'ble Court in C.W.J.C. No. 18289 of 2022, the respondent authorities cannot enforce recovery of such dues by making it a pre-condition for grant of fresh electrical connection to another unit wherein one of the Directors is a common Director.*

iv) *For a direction to the respondent authorities to grant fresh electrical connection to the petitioner Unit in accordance with Section 43 of the Electricity Act, 2003, read with Clause 4.1 of the Bihar Electricity Supply Code, 2007.*

v) *To hold and declare that any outstanding dues, disputed by a consumer and pending adjudication before a Court of competent jurisdiction, wherein interim protection has already been granted, cannot be treated as recoverable dues.*

vi) *To grant any other relief or reliefs for which the petitioner may be found entitled to in the facts and circumstances of the case.*

"1(vii). For quashing of the letter no. 588 dated 18.3.2024 issued by the respondent Electrical Executive Engineer, by which the prayer of the petitioner for grant of fresh electrical connection has been refused.

1(viii). For a direction to the respondent no. 5 and 6 not to take any coercive step against the petitioner, for delay in commencing commercial production, which is on account of delay in grant of fresh electrical connection, as the entire unit has been established by making huge investment."

3. It is the case of the petitioner that he has applied for

electrical connection and the same was rejected by the authority vide Memo No. 2221 dated 22.12.2023 basing on the clarificatory letter given by the respondent No. 3. That the authorities have denied the new connection to the petitioner on the ground that one of the directors of the petitioner's company is also a director in one Patna Iron Pvt. Ltd. which has defaulted in payment of the dues.



The authorities have relied on Clause 4.1 of the Bihar Electricity Supply Code, 2007 to deny the connection.

4. Learned counsel for the petitioner has stated that the petitioner's company is an independent company which is located at a different place than that of Patna Iron Pvt. Ltd. That as a matter of fact, the electricity dues of Patna Iron Pvt. Ltd. are subject matter of CWJC pending before this Court i.e., CWJC No. 18289 of 2022 and in the said CWJC, the interim orders have been granted by this Court whereby the petitioner therein was directed to pay 15% of the total due outstanding and the Hon'ble Court had directed the authorities not to take any coercive action against the said company. That the authorities cannot seek to recover the arrears of electricity charges of Patna Iron Pvt. Ltd. from the petitioner's company and deny the connection. Further, it is stated by the counsel for the petitioner that the petitioner is already having a 14 KV non-domestic connection and for the purpose of starting the steel industry, the petitioner is in need of a HTS Line of 400 KB. Learned counsel has stated that the authorities cannot deny the electricity connection solely on the ground that one of the directors of the petitioner's company is the director in the other defaulting company i.e., Patna Iron Pvt. Ltd. Further, learned counsel has relied on Section 43 of the Electricity Act, 2003 to



canvass that the authorities are precluded from rejecting the application of the petitioner for new connection. Learned counsel has also stated that the Bihar Electricity Supply Code, 2007, more specifically, Clause 4.1 has been misconstrued by the authority and denied the connection. That as a matter of fact, earlier there were two electricity connections in Patna Iron Pvt. Ltd. and the arrears of one of the connections was subsequently shifted to another connection, which is the subject matter of CWJC No. 18289 of 2022. That once the authorities have invoked the Clause 4.1, they cannot invoke the same clause once again and deny the new electricity connection to the petitioner. Learned counsel has therefore, prayed this Hon'ble Court to allow the present writ petition.

5. In the counter-affidavit filed by the respondents, the authorities have taken a stand that one of the directors of the petitioner's company was also the director of Patna Iron Pvt. Ltd. and the authorities were well within their rights to reject the application made by the petitioner as there were arrears of electricity dues for Patna Iron Pvt. Ltd. That as per Clause 4.1 of the Bihar Electricity Supply Code, 2007, if there are any arrears pertaining to the same premises against the occupier or owner or tenant, the new connection cannot be given to the subsequent



occupier or owner or tenant and in case any new connection is sought to be made, the arrears of the old connection have to be cleared first. Learned counsel has therefore, prayed this Court to dismiss the present writ petition.

6. Some of the provisions of the Electricity Act and Code, more particularly, Section 43 of the Electricity Act, 2003 and Clause 4.1 of the Bihar Electricity Supply Code, 2007 needs to be reproduced here for the purpose of better application of Section 43 of the Electricity Act, 2003 reads as under;

43. Duty to supply on request.—

(1) Save as otherwise provided in this Act, every distribution licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply:

Provided that where such supply requires extension of distribution mains, or commissioning of new sub-stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission:

Provided further that in case of a village or hamlet or area wherein no provision for supply of electricity exists, the Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.

(2) Explanation.— For the purposes of this sub-section, “application” means the application complete in all respects in the appropriate form, as required by the distribution licensee, along with documents showing payment of necessary charges and other compliances. It shall be the duty of every distribution licensee to provide, if required, electric plant or electric line for giving electric supply to the premises specified in sub-section (1): Provided that no person shall be entitled to demand, or to continue to



receive, from a licensee a supply of electricity for any premises having a separate supply unless he has agreed with the licensee to pay to him such price as determined by the Appropriate Commission.

(3) If a distribution licensee fails to supply the electricity within the period specified in sub-section (1), he shall be liable to a penalty which may extend to one thousand rupees for each day of default.

7. Clause 4.1 of the Bihar Electricity Supply Code, 2007 reads as under;

Licensee's Obligation to Supply

4.1 The Licensee shall on an application by the owner or occupier of any premises, located in his area of supply, give supply of electricity to such premises within one month after receipt of completed application and requisite charges.

Provided where such supply requires extension of distribution mains, or commissioning of new sub-stations, the distribution Licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as specified by the Commission in clause 4.80 of the code.

Provided also in case of application for supply from a village or hamlet or area wherein no provision for supply of electricity exists, the Commission shall extend the time period for provision of supply appropriately on a case-to-case basis:

Provided that if there are arrears of electricity dues on a premises, a new connection shall not be released to a new applicant / or the old consumer on the same premises, if -

(i) The applicant (being an individual) is an associate or relative (as defined in Section 2 and 6 respectively of the Companies Act, 1956) of the defaulting consumer;

(ii) Or where the applicant being a company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person, is controlled, or having controlling interest in the defaulting consumer; provided, the Licensee shall not refuse electric connection on this ground, unless an opportunity to present his case is



provided to the applicant and a reasoned order is passed by an officer as designated by the licensee.”

8. Admittedly, in the present writ petition, the unit of the Patna Steel Pvt. Ltd. is situated at different premises and only connection between the two units i.e., the writ petitioner company and the Patna Iron Pvt. Ltd. is that one of the directors of both the companies is one and the same except this commonality, there is nothing to connect the writ petitioner’s company with Patna Iron Pvt. Ltd.

9. A perusal of the Clause 4.1 which has been reproduced above reveals that in respect of arrears due against an owner or occupier or tenant of a premises, the new connection can be denied to the subsequent owner/ occupier/ tenant till the arrears of electricity dues on the said premises are recovered from the defaulting consumer. The fact that both the units are located at different places has not been denied by the authorities either in their counter-affidavit or denying their oral submissions, therefore, the question of application of Clause 4.1 does not arise in this particular case. Further, it is to be noted that it is not the case of the respondents that the Director of the petitioner’s company is having a controlling stake in the defaulting company i.e., Patna Iron Pvt. Ltd. It is pertinent to note that the dues of Patna Iron Pvt. Ltd are subject matter of CWJC No. 18289 of 2022 which is pending before this Court, therefore, the authorities cannot try to recover



the arrears due of Patna Iron Pvt. Ltd. from the petitioner herein which is a distinct and separate unit located at different place i.e., Plot No. B-5, Industrial Area, Phase-1 Fatuha, Patna. As a matter of fact, Section 43 of the Electricity Act, 2003 makes it mandatory for the licensee to give an electricity connection on the application of the owner or occupier of any premises within one month from the receipt of the application made by person.

10. Having regard to the above mentioned facts and circumstances, the impugned letters dated 12.12.2023, 21.12.2023 & 18.3.2024 are set aside, the authorities are directed to consider the application made by the petitioner for new electricity connection afresh duly taking note of the observations made by this Court in the present writ petition. The entire exercise shall be completed as expeditiously as possible preferably within a period of four weeks from date of receipt of a copy of this order.

11. With the above direction, the present writ petition stand allowed to the extent indicated.

(A. Abhishek Reddy, J)

Ayush/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.01.2025.
Transmission Date	NA

