

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8704 of 2018

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Shobha Devi Wife of Sunil Kumar Gupta at Police Camp, Beda, P.O. Beda,
P.S. Sasaram Muffasil, District Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Energy, Government of Bihar, Old Secretariat, Patna
2. The South Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna through its Managing Director.
3. The Electrical Executive Engineer, Supply, Sasaram, District Rohtas.
4. The Assistant Electrical Engineer, Electric Supply Sub-Division, Sasaram Rural, District Rohtas.
5. The District Certificate Officer, Rohtas, Sasaram.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	M/s Suraj Samdarshi Avinash Shekhar Simran Kumari Abhilasha Jha, Advocates
For the Respondent/s	:	Mr.Abbas Haider -SC 6

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 13-10-2025

1. The petitioner has filed the Writ application for the following reliefs:

“(i) For issuance of a Writ of Mandamus directing the respondent authorities and in particular the respondent no. 4, to complete the assessment proceeding as per provisions of Section 126 of the Electricity Act, 2003, which has not attained finality till date.

(ii) For issuance of a Writ of Certiorari for



quashing of the certificate proceeding giving rise to Certificate Case No. 33 of 2016-17, which has been instituted on the requisition which has not been properly filled up by the respondent no. 4.

(iii) For a declaration that initiation of certificate proceeding without final adjudication under Section 126 and 127 of the Electricity Act, 2003 tantamounts to gross abuse of the power and discretion conferred upon the Assessing Authority.

(iv) For a direction to the respondent no. 5 not to take any further step in the certificate proceeding bearing Certificate Case No. 33 of 2016-17 instituted on the basis of the requisition filed by the respondent no. 4, who is the Assessing Officer also, without compliance of Section 126 of the Electricity Act.

(v) For a declaration that unauthorized use of electricity would be only to the extent of the parameters reflected by the meter and not the connected load found in course of physical inspection, wherein meter is found to be correct; and for any other relief or reliefs to which the petitioner is found entitled.”



2. The brief facts as culled out of the petition are that the petitioner for establishing rice mill took an electricity connection bearing Service Connection No. AIR-3059, energized on 06.07.2012 with an initial sanctioned load of 51 H.P., which was enhanced to 81 H.P. under LTIS-II category. On 11.11.2014, an inspection was conducted during which the connected load was found to be 136 H.P., though the meter recorded a maximum demand of 116.19 H.P. All seals of the meter were found normal pursuant to the said inspection a demand of Rs. 8,56,852/- was raised under Section 126 of the Electricity Act. The said provisional assessment order was communicated vide Letter No. 424 dated 24.12.2014.

3. It is submitted that the petitioner filed representation dated 07.01.2015 based on these grounds in response to Letter No. 424, but no final order was passed under Section 126 of the Electricity Act. Despite this, the electricity supply was disconnected on 31.03.2015, and a certificate proceeding was initiated under the Bihar & Orissa



Public Demand Recovery Act, 1914, (hereinafter called as the PDR Act) for recovery of Rs. 7,71,843/-.

4. The Learned counsel for the petitioner submitted that in the absence of a final assessment under Section 126 of the Electricity Act, initiation of recovery under the PDR Act is illegal. It is further submitted that without a final order, the petitioner is deprived of the statutory right to appeal under Section 127 of the Electricity Act.

5. It is contended that the requisition for recovery filed by respondent no. 4 is defective and incomplete, vitiating the proceedings initiated thereupon and the entire recovery proceeding are contrary to the statutory scheme, thereby violating Articles 14 and 19(1)(g) of the Constitution of India.

6. A counter affidavit was filed on behalf of the respondents wherein the respondents admitted the inspection findings and the issuance of the provisional assessment.



7. The Learned counsel for the respondents submitted that the petitioner did not file objections within the stipulated time.

8. It is argued that the certificate proceeding was validly initiated based on the provisional assessment and the requisition was filed properly.

9. The respondents asserted that the petitioner should have availed the remedy under Section 10 of the PDR Act before approaching the Writ court. They denied any violation of constitutional rights and submitted that the certificate officer was the competent authority to adjudicate the objections.

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

11. Upon hearing the parties and perusing the records, it is evident that the final order under Section 126 of the Electricity Act was not passed despite the petitioner having filed objections to the provisional assessment due to this procedural



lapse the petitioner could not avail the statutory right of appeal under Section 127 of the Electricity Act.

12. Further, the initiation of certificate proceedings under the Bihar & Orissa Public Demand Recovery Act, 1914, without finalization of the assessment process, is found to be premature and legally unsustainable.

13. The Court also notes from the record that the petitioner has filed an objection under Section 9 of the PDR Act, but the Certificate Officer has not yet passed any order under Section 10.

14. Under the facts and circumstances stated above, the Court finds it appropriate to remit the matter to the Certificate Officer to decide the objections filed by the petitioner in accordance with law.

15. In view of the foregoing discussions, the matter is remitted to the concerned Certificate Officer to decide the objection filed by the petitioner under Section 10 of the Bihar & Orissa



Public Demand Recovery Act, 1914.

16. It is needless to mention that before passing any order, the authority concerned shall give an opportunity of hearing to the petitioner. Any order passed shall be communicated to the petitioner. The entire exercise shall be completed as expeditiously as possible preferably within a period of three months from the date of filing of the objections by the petitioner.

17. Accordingly the matter is disposed of with the aforesaid observation.

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

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.10.2025
Transmission Date	

