

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10673 of 2015

1. The South Bihar Power Distribution Company Ltd. and Anr erstwhile BSEB through its Managing Director having its Head office at Vidyut Bhawan, Bailey Road, Patna.1
2. The Electrical Executive Engineer-cum-Assessing officer, Electric Supply Division , Fatuha, Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Additional Collector-cum-Appellate Authority,Vikash Bhawan, Patna Collectariate, Patna.
3. Shree Shree Dwarika Ji Food Pvt. Ltd through its Director Sri Naresh Kumar Karmalichak,Didarganj, P

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 4260 of 2016

M/s Shree Shree Dwarikaji Foods Pvt. Ltd. S/o Late Dwarika Prasad,
Resident of Hajiganj, Patna City, P.S.- Chok, Town and District- Patna.

... .. Petitioner/s

Versus

1. The Bihar State Power Holding Co. Ltd. and Ors
2. The South Bihar Power Distribution Co. Ltd. having its office at Vidyut Bhawan, Bailey Road, Patna
3. The Electrical Superintending Engineer Supply, South Bihar Power Distribution Co. Ltd., Patna Circ
4. The Electrical Executive Engineer Supply cum Assessing Officer, Electric Supply Division, South Bi
5. The State of Bihar Energy Department, Govt. of Bihar, New Secretariat, Patna through its Secretary,
6. The Additional Collector-cum-Appellate Authority, Patna District- Patna.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 10673 of 2015)

For the Petitioner/s : Mr. Prakash Kumar
For the Respondent/s : Mr. Purnendu Singh- Gp27
For the Respondent

No. 3 : Mr. Mohit Agarwal, Adv.
: Mr. Rahul Kumar, Adv.
: Mr. Vikash Khanna, Adv.

(In Civil Writ Jurisdiction Case No. 4260 of 2016)

For the Petitioner/s : Mr. Alok Kumar Agrawal, Adv.
: Mr. Mohit Agarwal, Adv.
: Mr. Rahul Kumar, Adv.
: Mr. Vikash Khanna, Adv.
For the Respondent/s : Mr. Anjani Kumar- Aag6
: Mr. Prakash Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA



ORAL ORDER

29 24-11-2025

1. Heard the parties.

2. Since both the writ petitions involve common questions of law and fact, it is being decided by this common order. For the sake of convenience, writ petition bearing CWJC No. 4260 of 2016 is taken up together with the present case.

3. The dispute involved in the present writ application is for fixing the civil liability for unauthorized use of electricity by the consumer/respondent no. 3. The petitioner/SBPDCL have filed the present writ application being aggrieved by the order dated 16.02.2015 passed by respondent no. 2 i.e. Additional Collector-cum-Appellate Authority, Patna in Electricity Appeal Case No. 17 of 2012-13. The premises of respondent no. 3 was inspected by the inspecting team on 01.04.2011. The inspecting team found that there was massive theft of electrical energy and it was found that the seals provided on the top cover of the metering unit body at the time of its installation was tampered. Pursuant thereto, an FIR was lodged bearing Didarganj PS Case No. 47 of 2011 under Section 135/138 of the Electricity Act, 2003. The provisional assessment order was passed by the assessing authority for payment of Rs. 2,07,03,745/- by the consumer i.e. respondent no. 3. The final assessment was done and the Electrical Executive Engineer quantified the value of



electric theft at Rs. 2,02,72,653/-. The consumer filed an appeal against the final assessment order before the Additional Collector-cum-Appellate Authority and the appellate authority has set aside the order dated 15.12.2012 with a direction to prepare an amended demand considering the date 02.02.2011 as cut-off date for 'D' factor.

4. Learned counsel for the Power Distribution Company submits that the order passed by the appellate authority is bad in law as the appellate authority has failed to appreciate the reports dated 14.09.2010, 20.01.2011 and 02.02.2011 which clearly indicates that the above reports have no relation with the tampering in the metering unit as such, the same cannot be considered as a specific dates for consideration of duration of dates i.e., 'D' factor in computation of punitive charge.

5. On the other hand, learned counsel for the consumer/responder no. 3, placed a judgment of this court rendered in the case of Mosmat Swaran v. The State of Bihar reported in 2012 (2) PLJR 229 and submits that under Section 154 (5) & (6) of the Electricity Act, 2003, the Special Court has been constituted for determining the civil liability against a consumer or a person in terms of money for theft of energy. The



distribution company, without availing the remedy before the Special Court, has filed the present writ application.

6. Considering the aforesaid submissions made by the parties and the fact that the criminal case lodged by the Power Distribution Company is pending before the Special Court as such, in my opinion, it is in the interest of justice to refer the matter to the Special Court for determining the civil liability also against Respondent No. 3/Consumer. Accordingly, the petitioner is directed to file a separate petition before the Special Court where the criminal proceeding is pending challenging the impugned order of Additional Collector-cum-Appellate Authority, dated 16.02.2015, within a period of 30 days. If such an application is filed, the Special Court shall dispose the same in accordance with law by a reasoned order.

7. With the aforesaid direction and observation, the present writ application is disposed.

(Anil Kumar Sinha, J)

HarshPandey/-

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