

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1626 of 2022

Arising Out of PS. Case No.-82 Year-2022 Thana- SUGAULI District- East Champaran

1. SHIVENDRA PRASAD Son of Jagmohan Prasad R/o ward no. 16, Village-Kauwahan, P.O.- Bhargawa, P.S.- Sugauli, District- East Champaran
2. ID MOHAMMAD ANSARI Son of Noor Hasan Ansari R/v- Ahwar Shekh Ansari Tola, P.S.- Masauliya, District- West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar through its Director General of Police, Police Head Quarter, Patna Bihar
2. The Chairman-cum- Managing Director, Bihar State Power Holding Company Ltd. Vidyut Bhavan Bailey Road, Patna, Bihar
3. The Managing Director, North Bihar Power Distribution Company Ltd. Vidyut Bhavan, Bailey Road, Patna Bihar
4. The Electrical Executive Engineer, Electric Supply Division, Raxaul, District- East Champaran Bihar
5. The Assistant Electrical Engineer, Electric Supply sub-Division, Raxaul, District- East Champaran Bihar
6. The Superintendent of Police, East Champaran Bihar
7. The Sub Divisional Police Officer, Raxaul, District- East Champaran Bihar
8. The S.H.O., Sugauli Police Station, District- East Champaran Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Raja Ram Mishra, Adv.
For the State	:	Mr. Sheo Shankar Prasad, APP
For the NBPDC	:	Mr. Kunal Tiwary, ASC

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 07-01-2025 The petitioners have filed the instant writ petition for issuance of a direction upon the respondent nos. 2 to 5 to make final assessment in terms of Clause 11.2.3 of the Bihar Electricity Supply Code, 2007 of the connected load and loss of the premises of the ATC Telecom Infrastructure Private Limited, situated at village Kauwahan within P.S.- Sugauli in the District-



East Champaran with regard to Sugauli P.S. Case No. 82 of 2022, under Sections 126 and 135 of the Electricity Act, 2003 along with other consequential reliefs.

2. It is contended on behalf of the petitioners that on the basis of a complaint submitted by the concerned Authority under the Electricity Act, a case under Section 126 read with Section 135 of the Electricity Act, 2003 was registered against the petitioners in the year 2022. Till date, charge-sheet has not been submitted by the Police Authority.

3. However, in the mean time, the Electricity Authority passed final assessment order under Section 135 of the Indian Electricity Act, directing the petitioners to pay Rs. 12,66,228/- only. Being aggrieved, the petitioners have filed the instant writ petition.

4. Main contention of the petitioner is that Rule 11.2.3 (C) of the Electricity Code clearly states the procedure for hearing in respect of the dispute concerning final assessment and the manner in which the assessment order is to be passed. Under the said provision, it is incumbent upon the Assessing Officer to hear to the person in occupation on possession or in-charge of the place on premises, the Assessment Officer shall give due consideration to the facts submitted by such person and



pass, within seven working days, a speaking order. The order shall contain the brief of inspection report submissions made by such person in his written reply and during hearing.

5. The learned Advocate for the petitioners submits that no opportunity of hearing was given to the petitioners at the time of final assessment. The final assessment, which is annexed at page 18 of the counter affidavit, is nothing but a table work, but in view of the fact that the Assessing Officer did not record the submission made by the petitioners during the hearing of final assessment of electricity charges and dues.

6. The learned Advocate on behalf of the Electricity Board/Official Respondents, on the other hand, have vehemently denied such submission made by the learned Advocate on behalf of the petitioners and submits that the petitioners were present during the hearing and opportunity was given to them to take part in the hearing of final assessment.

7. The question as to whether the petitioners were present during the hearing of final assessment of electrical dues or not is a question of fact, which cannot be settled by the Writ Court. Section 127 of the Electricity Act, 2003 contains detailed provision for preference of appeal before the Appellate Authority by any person aggrieved by a final order under



Section 126. When the statute provides the specific remedy, the matter cannot be brought and adjudicated by the Writ Court without violating the specific provision of the Electricity Act.

8. Therefore, the petitioners are at liberty to approach the Appellate Authority against the final assessment.

9. I am not unmindful to note that if at this stage the petitioners want to prefer an appeal, the Appellate Authority may dispose of the appeal on the ground of limitation.

10. It is clearly mentioned that if such appeal is filed by the petitioners, the Appellate Authority shall condone the delay in preferring the appeal, taking lenient approach, with regard to the limitation. Thereafter, the Appellate Authority shall pass a reasoned order, on final assessment of electrical dues, after granting opportunity to the petitioners of being heard.

11. The instant criminal writ petition is accordingly disposed of.

(Bibek Chaudhuri, J)

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