IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(C) No.753 of 2021

M/s Sheo Shakti Cement Industries, a partnership firm, having its works at Demotand, P.O. Morangi, P.S. Mufasil, District Hazaribagh, through one of its partners, Shri Raj Kumar Singhania, son of Late Kishan Lal Singhania, resident of Boddom Bazar, P.O. & P.S. Hazaribagh, District Hazaribagh. **... ... Petitioner**

Versus

1. Jharkhand Urja Vikash Nigam Ltd. (JUVNL), having its office at Engineering Bhawan, P.O. & P.S. Dhurwa, District Ranchi.
2. Chairman, Jharkhand Urja Vikash Nigam Ltd., having its office at Engineering Bhawan, P.O. Dhurwa, P.S. Jagannathpur, District Ranchi.
3. Chief Electrical Engineer-cum-Chief Electrical Inspector, Ranchi, having its office at Department of Energy, Nepal House, P.O. & P.S. Doranda, District Ranchi.
4. Secretary, Jharkhand Urja Vikash Nigam Ltd., having its office at Engineering Bhawan, P.O. Dhurwa, P.S. Jagannathpur, Ranchi.
5. General Manager-cum-Chief Engineer, Hazaribagh Area, Jharkhand Urja Vikash Nigam Ltd., having its office at Engineering Bhawan, P.O. & P.S. Hazaribagh, District Hazaribagh.
6. Electrical Superintending Engineer, Jharkhand Urja Vikash Nigam Ltd., Electric Supply Circle, P.O. & P.S. Hazaribagh, District Hazaribagh.
7. Assistant Electrical Engineer, Jharkhand Urja Vikash Nigam Ltd., Electric Supply Circle, P.O. & P.S. Hazaribagh, District Hazaribagh.

... ... Respondents

WITH

W.P.(C) No.876 of 2021

M/s Sheo Shakti Cement Industries, a partnership firm, having its works at Demotand, P.O. Morangi, P.S. Mufasil, District Hazaribagh, through one of its partners, Shri Raj Kumar Singhania, son of Late Kishan Lal Singhania, resident of Boddom Bazar, P.O. & P.S. Hazaribagh, District Hazaribagh. **... ... Petitioner**

Versus

1. Jharkhand Urja Vikash Nigam Ltd. (JUVNL), having its office at Engineering Bhawan, P.O. & P.S. Dhurwa, District Ranchi.
2. The Chairman, Jharkhand Urja Vikash Nigam Ltd., having its office at Engineering Bhawan, P.O. Dhurwa, P.S. Jagannathpur, District Ranchi.
3. Chief Electrical Engineer-cum-Chief Electrical Inspector, Ranchi, having its office at Department of Energy, Nepal House, P.O. & P.S. Doranda, District Ranchi.
4. Secretary, Jharkhand Urja Vikash Nigam Ltd., having its office at Engineering Bhawan, P.O. Dhurwa, P.S. Jagannathpur, Ranchi.
5. General Manager-cum-Chief Engineer, Hazaribagh Area,

Jharkhand Urja Vikash Nigam Ltd., having its office at Engineering Bhawan, P.O. & P.S. Hazaribagh, District Hazaribagh.

6. Electrical Superintending Engineer, Jharkhand Urja Vikash Nigam Ltd., Electric Supply Circle, P.O. & P.S. Hazaribagh, District Hazaribagh.
7. Assistant Electrical Engineer, Jharkhand Urja Vikash Nigam Ltd., Electric Supply Circle, P.O. & P.S. Hazaribagh, District Hazaribagh.

... ... Respondents

CORAM : SRI ANANDA SEN, J.

For the Petitioner(s) : Ms. Amrita Sinha, Advocate
Mrs. Shweta Suman, Advocate
Ms. Pragunee Kashyap, Advocate

For the Respondent(s) : Mr. Shivam Kumar, AC to AG
Mr. Mrinal Kanti Roy,
Sr. Standing Counsel
Mr. Rishi Ranjan Vats, Advocate

10/ 16.09.2026

In both these writ petitions, the parties are same and have prayed for similar reliefs, which jointly read as hereunder:-

> *"a) For issuance of an appropriate writ or writs in the nature of certiorari for quashing and setting aside the appellate orders dated 31.01.2019 in Appeal Nos.47/2013-14 and 45/2012-2013 respectively, passed by Chief Electrical Engineer-cum-Chief Electrical Inspector, Ranchi, whereby and whereunder the said appellate authority has been pleased to dismiss the appeal filed by the petitioner against the assessment orders dated 19.02.2008 and 11.07.2008 respectively, passed u/s 126 of the Electricity Act, 2003.*
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> *b) For issuance of an appropriate writ or a writ in the nature of certiorari for quashing and setting aside the assessment orders dated 19.02.2008 and 11.07.2008 respectively, passed by Electrical Superintending Engineer under*

section 126 of the Electricity Act wherein amount of Rs.7,14,720/- and Rs.28,58,736/- respectively, have been assessed against the petitioner on account of alleged loss suffered by the Electricity Board particularly in view of the fact that the impugned order itself has been passed without arriving at any conclusion that pilferage of electricity was going on in the premises and accordingly the impugned order is without any basis.

c) For a direction upon the concerned authority of the Respondent Electricity Board to forthwith refund an amount of Rs.7,14,720/- and Rs.28,58,736/- respectively, with interest @ 18% per annum which was paid by the petitioner pursuant to the assessment made against the petitioner vide orders of assessment dated 19.02.2008 and 11.07.2008 respectively, as the same were paid under compelling circumstances in order to get the electricity line restored."

2. Heard learned counsel representing the petitioner and learned counsel representing the respondents.

3. Learned counsel representing the petitioner-Firm submits that the impugned orders dated 31.01.2019 passed by the Appellate Authority in both the Appeal Nos.47/2013-14 and 45/2012-2013, are bad in law as well as on facts and are liable to be set aside, as the Appellate Authority had not taken into consideration the entire aspects which were sought to be dealt with, in proper perspective.

4. Learned counsel representing the respondents submits that the petitioner-Firm had not challenged the entire order in the

Appeals, thus the impugned orders do not warrant any interference.

5. Shorn of unnecessary details, the facts of these writ petitions are as follows:-

5.1. The petitioner-Firm had setup a Medium Scale Industrial Unit for the manufacture of Cement, in Hazaribagh, Jharkhand. The petitioner - Firm took electricity connection for the said purpose, from the Jharkhand Urja Vikas Nigam Limited, having a contract demand of 1067 KVA.

5.2. On the basis of some allegations against the petitioner-Firm, a surprise inspection was done by the State Electricity Board on 15.02.2008. In the said inspection, several deficiencies were pointed out in the Manufacturing Unit of the petitioner-Firm, such as tampering of seals of the meter, theft of electricity and pilferage.

5.3. The aforesaid allegations led to lodging of criminal complaint against the petitioner-Firm, being Sadar Muffasil P.S. Case No.155 of 2008, under Sections 126, 135 and 138 of the Electricity Act, 2003 and Section 379 of the Indian Penal Code; and electricity supply to the petitioner-Firm had also been cut-off, on account of non-payment of outstanding provisional bill. The petitioner-Firm filed a representation to restore the electric supply, however the same was restored upon depositing the amount of Rs.7,14,720/-, as calculated under Section 126 of the Electricity Act, 2003, vide order dated 19.02.2008, passed by the Electrical Superintending Engineer, Electric Supply Circle, Hazaribag.

5.4. Thereafter, another surprise inspection was done on

03.06.2008, concluding in pointing out several deficiencies against the petitioner-Firm, which led to filing of another criminal case being Sadar Muffasil P.S. Case No. 534 of 2008. The petitioner - Firm filed another representation for restoration of electric supply, which led to issuance of final assessment order dated 11.07.2008 to the petitioner – Firm. The petitioner-Firm deposited an amount of Rs.28,58,736/-, for restoration of electricity.

5.5. Thereafter, the allegations levelled against the petitioner-Firm found to be false in the final reports, in connection with the aforesaid cases, which were also accepted by the learned Chief Judicial Magistrate, Hazaribagh, and both the aforesaid criminal cases against the petitioner-Firm were dropped vide orders dated 02.05.2009 and 05.07.2010.

5.6. Thereafter, the respondent - Electricity Board had filed the protest petition, which was registered as Complaint Case No.874 of 2009.

5.7. The petitioner-Firm moved before this Court challenging the final orders of assessment dated 19.02.2008 and 11.07.2008, by filing writ petitions being W.P.(C) Nos.5285 of 2012 and 5226 of 2012, which were permitted to be withdrawn by a Coordinate Bench of this Court vide orders dated 21.01.2013, granting liberty to the petitioner-Firm to file Statutory Appeals, under Section 127 of the Electricity Act.

5.8. The petitioner-Firm accordingly filed Appeals being Appeal Nos.47/2013-14 and 45/2012-2013, which were ultimately (after restoration) dismissed by the Appellate Authority vide order

as contained in Letter No.43 dated 31.01.2019 and Letter No.44 dated 31.01.2019, on the ground that protest petition being Complaint Case No.874 of 2009, filed by the JBVNL against acceptance of the final form, was pending.

5.9. The petitioner-Firm is impugning the aforesaid Appellate Orders in these writ petitions.

6. The petitioner-Firm in these Writ Petitions, is assailing the Appellate Orders dated 31.01.2019 passed in Appeals No.47/2013-14 and 45/2012-13, both filed under Section 127 of the Electricity Act, 2003, challenging the order of assessment and for refund of amount along with interest and also for quashing the bill; whereby the said Appeals were dismissed on the ground that the said Appellate Authority has got no authority and jurisdiction to pass such order; and the Appeals are not maintainable. The last two operative paragraphs, which are same in orders dated 31.01.2019 passed in both the aforesaid Appeals, are quoted hereinbelow:-

> *"In view of the aforesaid clear provisions the appellate authority u/s 127 has no authority & jurisdiction to pass any order for refund of the amount deposited by the Appellant. In case of acceptance of final form and dropping of criminal proceeding by the special court, the provisions of section 154(6) would come into play and it is the special court who can pass order for refund of the amount already deposited.*
>
> *It further transpires that the JBVNL has made belatedly protest against the acceptance of final form and the protest petition has been registered as complaint case bearing*

complaint case no.874/2009 which is still pending. Thus the final adjudication upon the allegation of the theft of Electricity is yet to be finally decided by the competent court. Hence , in the aforesaid facts and circumstances, and especially in view of the provisions of the section 154 ,the Appellant has no jurisdiction to direct the Nigam for refund of the amount so deposited by the appellant. The appeal in the present form is not maintainable and hence the same is dismissed as not maintainable."

6.1. Since the petitioner-firm had challenged the final assessment order passed under Section 126 of the Electricity Act, the Appellate Authority wrongly dismissed both the aforesaid Appeals, as not maintainable.

6.2. It is a settled position of law that the Appellate Authority, while exercising its statutory powers under Section 127 of the Electricity Act, 2003, functions as a quasi-judicial body; and as such, the Appellate Authority should hear the parties and pass an appropriate reasoned order based on a comprehensive evaluation of the evidence, facts, and applicable laws.

6.3. Further, in order to deal with the contention of the respondents against the petitioner-Firm of not challenging the entire assessment order, it is first necessary to reproduce the prayers made at para-55 of the Memo of Appeal No.47/2012-13, which are quoted as hereunder:-

"55. That this appeal is made bonafide and in the interest of justice.

Under the aforesaid circumstances it is most humbly and respectfully prayed that

your lordships may graciously be pleased to admit this case, issue notice upon the respondents to show cause as to why an appropriate order be not issued for setting aside the order of assessment as contained in order dated 19.2.2008 (Annexure-6/1) passed by Electrical Superintending Engineer, Electric Supply Circle, Hazaribagh wherein an amount of Rs.7,14,720/- has been assessed against the appellant on account of alleged loss suffered by the Electricity Board alleging pilferage of Electricity for which First Information Report was lodged against the appellant in Hazaribagh Muffasil Police Station Station on 15.2.2008 and thereafter final form was submitted mentioning the entire alleged theft of Electricity as untrue which was duly accepted by the Learned Court Below vide order dated 2.5.2009.

AND

for issuance of an appropriate order directing the respondents to refund an amount of Rs. 7,14,720/- which was paid by the appellant pursuant to the assessment made against the appellant vide order of assessment dated 19.2.2008 as the same was paid under compelling circumstances in order to get the electricity line restore as in the order dated 19.2.2008 itself it was mentioned that if the aforesaid amount is paid the line should be restored.

AND

For issuance of an appropriate order directing the respondents to pay interest on the aforesaid amount from the date of payment i.e. 19.2.2018 (Annexure-7) till the date of refund with statutory interest or

at the rate of 18% per annum whichever is more.
AND
After hearing the parties be further pleased to grant the aforesaid relief(s) to the appellant.
AND
Pass such other order or orders as your lordships may deem fit and proper under the facts and circumstances of this case.
AND
For this act of grace the appellant shall ever pray."

6.4. For the sake of brevity and in order to avoid prolixity, the prayers made in the Memo of Appeal No.45/2012-2013, which are at para-60 of the said Appeal, are not being reproduce, as all the prayers are more or less akin to the aforesaid prayers made in Memo of Appeal No.47/2012-13, except one prayer for quashing the bill and some algorithms and dates.

6.5. From perusal of the Memo of Appeals, more particularly the aforementioned paragraphs of the Memo of Appeals, this Court finds that the petitioner – Firm had not only prayed for refund of the amount along with interest, rather it had challenged the entire orders including setting aside of final order of assessment, quashing of bill etc.; in spite whereof, the Appellate Authority had only dealt with the point of refund. Thus, the submission of the respondent's counsel of not throwing challenge to the entire Assessment Order, is found to be misplaced one.

7. Thus, the impugned orders as contained in Letter Nos.43 and 44, both dated 31.01.2019 in Appeal Nos.47/2013-14

and 45/2012-13, passed by the Appellate Authority i.e. Chief Electrical Engineer-cum-Chief Electrical Inspector, Ranchi, are hereby set aside.

7.1. However, the matters are remanded back to the Appellate Authority to consider the cases of the petitioner-Firm on merit, dealing with the challenge thrown to the entire order of assessment against the petitioner-Firm. The petitioner-Firm will produce a copy of this order to the Appellate Authority.

7.2. The Appellate Authority will hear the parties and pass a reasoned order, within three months, from the date of receipt of copy of this order.

7.3. Limitation, if any, should be considered taking into account the fact that these writ petitions were pending before this Court since 2021.

8. With the aforesaid observations and directions, these Writ Petitions stand **allowed**.

(ANANDA SEN, J.)

16th September, 2026
Prashant.Cp-2

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