(2003) 03 PAT CK 0012

In the Patna High Court

Case No : L.P.A. No. 184 of 2003

Apurva Kumar APPELLANT

Vs

The Bihar State Electricity Board and Others RESPONDENT

Date of Decision : 11-03-2003

Acts Referred:

Bihar and Orissa Public Demands Recovery Act, 1914 — Section 60, 62

Citation : (2003) 2 PLJR 503

Hon'ble Judges : Ravi S. Dhavan, C.J;P.K. Deb, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This letters patent appeal has been filed against the order of 4 February, 2003 on CWJC. No. 12270 of 2002 Apurva Kumar v. The Bihar State Electricity Board and Ors.

2. The consumer of electrical energy faces recovery proceedings. The main issue is as to who is the consumer ? The consumer is one M/S Apic Chemicals Pvt. Ltd., Hazipur. The Petitioner-Appellant Apurva Kumar is the Director of the Company. The Company did not file the writ petition. In the circumstances, Apurva Kumar was not possessed of any legal status to challenge whatever be the proceedings. The industry that is to say, M/S Apic Chemical Pvt. Ltd. Hajipur had an agreement with the Bihar Electricity Board for the supply of a certain load of electrical energy. In the agreement, there is a Clause 9 (a). In reference to the context, there is a certain period which must pass before the industry may be exempted from payment of any charges. This period is in the context of compulsory availing period. This Court is not going into the question as to when actually the electricity connection was cut off or the industry desires that the electricity connection be cut off. Truly, both the parties are bound by the agreement which they signed between them.

3. When a demand was made by the Electricity Board, the industry resisted the

payment and when the recovery proceedings were taken out one of the Directors, that is Apurva Kumar, filed a writ petition before the High Court, in effect, raising a legal plea that he is not bound by the action of the Company and that he is a Director and he did not sign any agreement in his personal capacity and thus no recovery may chase the amount, which is admittedly due.

4. The Petitioner-Appellant Apurva Kumar apparently forgot that a Director is an agent of the Company. If every Director of a corporate body starts raising this plea and the nation is to move into a new economic order then persons like the Petitioner and the Company of which he is a Director will collapse the State Electricity Boards.

5. The balance which remains is that the Company desires to challenge the recovery proceedings, which were taken out under the Bihar and Orissa Public Demands Recovery Act, 1914. If the Company be aggrieved by the recovery proceedings then of any order which has been passed it may file an appeal u/s 60 of the Act and thereafter there is a revision u/s 62 also.

6. Clearly, the Company and its Directors, want to evade the provision of Section 60 which requires them to deposit 40% of the disputed amount first. The filing of the writ petition with such an inequitable plea was also a sharp practice which this Court will not encourage.

7. Dismissed.

