
(2020) 12 PAT CK 0323

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 3383 Of 2011

Bharti Infratel Limited

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 09-12-2020

Acts Referred:

Bihar Electricity Duty Act, 1948 — Section 3

Citation : (2020) 12 PAT CK 0323

Hon'ble Judges : Sanjay Karol, CJ;S. Kumar, J

Bench : Division Bench

Advocate : Gopal Jain, Vikash Kumar

Final Decision : Disposed Of

Judgement

The petitioner has prayed for the following relief(s):-

â??(i) An appropriate writ/order/direction in the nature of prohibition prohibiting the respondent authorities from continuing with the present

proceedings in pursuance of notice dated 27/12/2010 (as contained in Annexure-1) issued by the respondent no.2 Deputy Commissioner, Commercial

Tax Dept., and inspection report dated 27/01/11 whereby & whereunder proceeding has been initiated to assess the liability of the petitioner company

under Section 3 of the Bihar State Electricity Duty Act, 1948 (herein after mentioned as the Act) as being wholly without jurisdiction and illegal may

be issued.

(ii) An appropriate writ/ order/ direction in the nature of certiorari for quashing the proceeding and consequent notice dated 27/12/2010 (as contained

in Annexure- 1) issued by the respondent no.2 Deputy Commissioner, Commercial Tax Dept., whereby & whereunder proceeding has been initiated

to assess the liability of the petitioner company under Section 3 of the Bihar State Electricity Duty Act, 1948 (herein after mentioned as the Act) as

being wholly without jurisdiction and illegal may be issued.

iii) An appropriate writ/ order / direction in the nature of Mandamus directing the respondents not to take any coercive step for realization of electricity

duty under the provision of the Bihar Electricity Duty Act during the pendency of the present writ application.

(iv) To any other relief or reliefs for which the petitioner is entitled.â??

It is not in dispute that the impugned action is based on the notification bearing SO No. 14 dated 4th March, 2005. It is also not in dispute that the

validity of the said Notification, subject matter of adjudication of the present lis, was struck down by a co-ordinate Bench of this Court vide decision

rendered in Bihar Sugar Mills Association, a branch of India Sugar Mills Association, New Delhi & Ors. Vs. The State of Bihar & Ors; 2009(4)

PLJR416.

It is also not in dispute that assailing the same, the State preferred an Appeal before Honâ??ble the Apex Court, bearing Civil Appeal No. 2570 of

2010, titled as State of Bihar & Ors. vs. Bihar Sugar Mills & Ors., which, on account of certain intervening developments, was disposed of along with

several other analogous cases in the following terms:

â??All the civil appeals stand dismissed as having become infructuous and all the transferred cases are disposed of in the terms of the signed order.

Till further order is passed by the High Court, the interim order will continue.â??

Undisputedly, the substratum of the present impugned action stands taken away, in view of subsequent notification issued by the State.

As such, we dispose of the present petition making the decision rendered in Bihar Sugar Mills Association (supra) binding the parties, reserving liberty

to the State to initiate action in terms of the subsequent legislation.

Interlocutory application, if any, shall also stand disposed of.