

(2011) 07 PAT CK 0083
In the Patna High Court
Case No : LPA No's. 416 of 2008

Bihar State Electricity Board and Others	APPELLANT
Vs	
M/s J.M.G. Steel Pvt. Ltd. M/s J.M.G. Steel Pvt. Ltd.	RESPONDENT
Vs Bihar State Electricity Board and Others	

Date of Decision : 01-07-2011

Acts Referred:

Electricity Act, 2003 — Section 42, 42(5)

Citation : (2011) 4 PLJR 120

Hon'ble Judges : T. Meena Kumari, J;Akhilesh Chandra, J

Bench : Division Bench

Judgement

1. The present Letters Patent Appeals arise out of the common order dated 11.4.2008 passed in C.W.J.C. No. 6242 of 2003, C.W.J.C. No. 6241 of 2003 and C.W.J.C. No. 14128 of 2003. The main grievance of the respondent-writ petitioners is with regard to the billing pattern adopted by the Bihar State Electricity Board.

2. Learned Single Judge relying on Clause 15.2(a) of the tariff has quashed the bill on the ground that the Electricity Board has given a new interpretation to Clause 15.2(a) raising the demand charges to the level of minimum contract demand is a misplaced exercise of power, if not a misplaced interpretation. Learned Single Judge also quashed the communication contained in Memo No. 1200 dated 13.6.2003 as well as Memo No. 1199 dated 13.6.2003 in respect of the Companies. The supplementary bills raised with reference to the said communications are also quashed. Against this the present appeals have been preferred by the Electricity Board.

3. Learned counsel for the respondent-petitioners relying upon the policy of tariff has submitted that if a consumer falls under the category of HTS-II applicability of Clause 3 with regard to payment would be at the rate of minimum contract demand of 1000 KVA. Learned counsel has also emphasized on the Clause 3, which deals with tariff, would indicate that bills charged Rs.115 KVA per month

and the billing demand will be the maximum demand recorded during the month or 75 per cent of the contract demand whichever is higher.

4. Learned counsel for the Electricity Board has submitted that the minimum contract demand of 1000 KVA with reference to any of the entrepreneurs under HTS-II category charges would be calculated on the basis of consumption or the charges levied under the HTS-II category because they are independent to each other and the respondents are bound to pay at the rate of 75 per cent of the contract demand.

5. Perusal of Annexure-1 and Annexure-3 under different writ petitions would go to show that a revised bill has been issued by the Electricity Board on the ground of miscalculation in billing pattern. The order of the learned Single Judge would show that many issues have been raised before the learned Single Judge with regard to applicability of Clause 15(2)(a) of the tariff conditions and also of Clauses 4(a) to (d). At the outset it has to be observed that Bihar Electricity Regulatory Commission has been brought into existence by the State of Bihar exercising the powers purported to be under subsection 5 of Section 42 of the Electricity Act, 2003. The perusal of the powers of the Commission would indicate that the Commission has got powers to go into the question of "error in billing". The case of the appellants-Board was that there was miscalculation of the previous bills and hence the revised bills have been issued. In view of the law laid down by the Apex Court in the case of Maharashtra State Electricity Distribution Co. Ltd. vs. Lloyds Steel Industries Ltd. reported in AIR 2008 SCW 624 , we are of the opinion that respondents can avail the remedy open to them before the above forum in accordance with law. As and when the respondents approach the forum, the forum shall dispose of the matter in accordance with law after hearing both the parties within the statutory period without being influenced by any of the observation of the learned Single Judge or this Court.

6. With the above modifications all the three Letters Patent Appeals stand disposed of.