
(2019) 08 JH CK 0025
In the Jharkhand High Court
Case No : Writ Petition (C) No. 998 Of 2018

Jahirul Islam

APPELLANT

Vs

Jharkhand Urja Vikas Nigam Limited And Ors

RESPONDENT

Date of Decision : 13-08-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438(2)
Electricity Act, 2003 — Section 154
Constitution Of India, 1950 — Article 226

Citation : (2019) 08 JH CK 0025

Hon'ble Judges : Sujit Narayan Prasad, J

Bench : Single Bench

Advocate : M.S. Mittal, Rahul Lamba, Ajit Kumar, Navin Kumar, Vikash Kumar

Final Decision : Disposed Off

Judgement

I.A. No. 7326 of 2019

This writ petition has been filed under Article 226 of the Constitution of India whereby and whereunder direction has been sought for upon the respondents to immediately and forthwith restore the electricity connection of the petitioner as also not to give effect to the illegal assessment of Rs.72,11,368/- raised against the petitioner as the net total alleged theft of electricity in Pakur Malpahari P.S. Case No. 145 of 2017 corresponding to G.R. No. 648 of 2017.

2. Mr. M.S.Mittal, learned senior counsel appearing for the petitioner had argued the case on 08.08.2019 by placing the relief sought for by him in interlocutory application being I.A. No.7326 of 2019 by taking aid of an order passed by this Court under Section 438(2) of the Code of Criminal Procedure in A.B.A. No. 7040 of 2017 and this Court after hearing the learned counsel for the parties, has passed the following orders :-

"Two interlocutory applications have been filed being I.A. No.7326 of 2019 and I.A. No. 7327 of 2019.

First interlocutory application being I.A. No. 7326 of 2019 is for seeking a direction for restoration of the electricity connection on the basis of the fact that in pursuance to the order, passed by this Court under Section 438 (2) of the Code of Criminal Procedure in A.B.A. No. 7040 of 2017, the petitioner has been directed to be released on bail in case of surrender, if he will pay Rs.36,05,984/-, initially, the petitioner has been directed to deposit Rs.11,05,984/- and subsequent thereto, Rs.5,00,000/- have been directed to be deposited within one month from the date of his surrender and thereafter, on depositing Rs.5,00,000/- to the respondents till completion of a total amount of Rs.36,05,984/-, the provisional bail granted to the petitioner shall be confirmed by the trial court till disposal of the case.

In terms of the said order, the petitioner has already deposited Rs.21 lacs and therefore, prayer has been made in the instant interlocutory application for a direction to restore the electricity connection.

Second interlocutory application being I.A. No. 7327 of 2019 has been filed for preponing the date of hearing, since the date for hearing of this case has been fixed on 20.09.2019 on the ground of non-availability of power supply in the premises.

Mr. Vikash Kumar, learned A.C. to Mr. Ajit Kumar, learned Sr.S.C. appearing for the Respondent-J.U.V.N.L. has sought for time to list this case on Tuesday, so that he may seek instructions on both the interlocutory applications (I.A. No. 7326 of 2019 and I.A. No.7327 of 2019).

In view thereof, list this case on 13.08.2019.

In the meanwhile, instruction, if any shall be obtained and if found necessary, to file affidavit."

3. Mr. Ajit Kumar, learned senior counsel appearing for the respondent JUVNL has placed a communication issued under the signature of Electrical Executive Engineer, Electric Supply Division, Pakur dated 13.08.2019 addressed to Mr. Navin Kumar, learned Senior Standing Counsel, JBVNL whereby and whereunder no objection has been shown if the electricity line would be directed to be reconnected basing upon the fact that the petitioner since has paid altogether Rs. 21 lacs out of Rs. 36,05,984/- as has been directed to be paid by this Court in an order passed in A.B.A. No. 7040 of 2017 and rest amount is to be paid by him to enjoy the privilege of bail and therefore, submission has been made that appropriate order may be passed. Let a copy of the communication dated 13.08.2019 be kept on record.

4. This Court, after having heard learned counsel for the parties and taking into consideration the fact that out of the total sum of Rs.72,11,368/-, the petitioner since has already paid Rs.11,05,984/- and subsequent thereto Rs.5,00,000/- twice, total comes to Rs.21,05,984/-, and rest amount is to be paid by the petitioner to enjoy the privilege of bail as directed by this Court in A.B.A. No.

7040 of 2017.

5. Since 50% amount is now to be paid by the petitioner and as such this Court, keeping the fact into consideration that since the petitioner is making payment of the amount as directed in A.B.A. No. 7040 of 2017 and if an appropriate order is not passed, the petitioner as well as respondent Board will suffer as because if the petitioner will consume the electricity, some revenue will go to the State Exchequer and therefore this Court deems it fit and proper to direct the respondent authorities to restore the electricity connection to the premises of the petitioner forthwith.

6. The restoration of the electricity, as directed above, will depend upon the conduct of the petitioner so far as it relates to making payment of rest of the amount as directed by this Court in A.B.A. No.7040 of 2017 and other dues if any, which will not be subject matter of the amount pertaining to the F.I.R. in question as also the petitioner will make payment of the current dues whenever it falls and is payable.

7. In case of default of any of the conditions, the Board will be at liberty to take appropriate measures as permissible and admissible in law.

8. I.A. No. 7326 of 2019 stands disposed of.

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9. This Court since has passed an order with respect to the prayer pertaining to prayer '(a)' that relates to the restoration of the electricity connection, as such prayer '(a)' has been rendered to be infructuous.

10. So far as prayer '(b)' is concerned, the same pertains to alleged illegal assessment of Rs.72,11,368/- which is since the subject matter of Pakur Malpahari P.S. Case No. 145 of 2017 corresponding to G.R. No. 648 of 2017, therefore, the same is not fit to be adjudicated by the writ court under Article 226 of the Constitution of India taking into consideration the provision of Section 154 of the Electricity Act, 2003 and therefore, the writ petition in entirety is also being disposed of giving liberty to the petitioner to raise the issue of alleged illegal assessment of Rs.72,11,368/- at the appropriate stage by invoking the jurisdiction of Section 154 of the Electricity Act, 2003.

11. The writ petition is accordingly disposed of. Consequently, I.A. No.4435 of 2018 and I.A. No.7327 of 2019 also stands disposed of.