
(2002) 11 PAT CK 0072
In the Patna High Court
Case No : L.P.A. No. 1162 of 2002

Jayanti Industries

APPELLANT

Vs

Bihar State Electricity Board and Others

RESPONDENT

Date of Decision : 13-11-2002

Acts Referred:

Citation : (2002) 11 PAT CK 0072

Final Decision : Dismissed

Judgement

Ravi S. Dhavan, C.J.—This Letters Patent Appeal has been filed against the order dated 26 August, 2002 on C.W.J.C. No. 2767 of 2002: Jayanti Industries Vs. Bihar State Electricity Board and Others,

2. At the out set, upon hearing learned Counsel for the Petitioner, the Court desired submissions on what exactly be the error in the order or illegality in it so as to occasion interference by a Letters Patent Appeal. The Court cannot help recording to put it very mildly and modestly that the submissions which came on behalf of the Appellant were not in humility but with much belligerence. This, the Court does not appreciate.

3. The submission before the Court was that it is not of any other issue which may not have been noticed by the learned Judge on the writ petition except the illegality of the Bihar State Electricity Board of having disconnected the electrical connection to the Petitioner's industry. If the matter could have been seen in isolation on the latter submission, then, perhaps this Court would have done so. But, the learned Judge has noticed many other issues raised in the petition and in the counter affidavit which has been filed on behalf of the Bihar State Electricity Board. Once the issues had been presented, neither the learned Judge on the writ petition nor this Court can avoid the totality of circumstances and examine only one aspect.

4. The issue is then borne out from the submissions as made on the writ petition itself and the submission of the Bihar State Electricity Board on the counter

affidavit which this Court reproduces:

Sub-mission of the Petitioner in paragraphs 17, and 44

Submission of the Bihar State Electricity Board in paragraph 09 of the counter affidavit.

17. that simultaneously, the Petitioner also filed an application in the prescribed form for a new electrical connection in the LTIS category of 25 HP load. 44. That even otherwise, none of the Respondents ever took into consideration the fact that the Petitioner had never asked for disconnection of his electric line, rather he had asked for reduction of his load from 150 MVA 25 HP and as the existing load of 150 KVA was in the High Tension Industrial category, the existing agreement was required to be entered into.

That at this stage it would be relevant to state here that the Petitioner's demand for grant of a new connection cannot be adhered to till the subsisting agreement is terminated and all the dues regarding the same are cleared/ paid. The falsity and misleading attitude, of the Petitioner is further exposed if para Nos. 17 and 44 to the writ petition are read together, in para No. 17 the Petitioner has stated that h" applied for a new connection whereas in Para No. 44 it has been stated that it had never asfcdod for disconnection of electricity line, rather * had asked for reduction of the load from 150 KVA to 25 H.R

5. In the circumstances, the issues were very clear. The fact that the Petitioner had been granted High Tension Connection for setting up an industry, in effect, is not in issue. The fact that the Petitioner desired that after two years the load be reduced is also an aspect not in issue. One of the modalities agreed upon for reducing the load was that while the Petitioner would be obliged to give notice, one year later the load will stand reduced. This stipulation by the law to give one year's notice to the Electricity Board is a method in itself. It is a rule of prudence and common sense of the load which is to be reduced the Board gets one year time to make an arrangement to sell this surplus energy to another consumer. This mitigates damages for the Board in abruptly shutting down one connection and not being able to locate another industrial consumer for the surplus electricity.

6. The learned Judge has recorded that the issues which have been presented are of the Petitioner's own making. Upon the notice being given, it is understood that the tariffs whatever they might be will be charged for the duration of the one year notice. Thereafter, the load as desired wifl be reduced. This is the agreement and the law. What the Petitioner is facing is that at the end of the expiry of one year notice the Bihar State Electricity Board saddled the Petitioner with bills which is in the normal course of business and the agreement between the Petitioner and the Electricity Board. Contrary to the agreement the Petitioner wants that tariff during the period of notice be not charged and the matter be treated as one of disconnection. The rub is about the issue on ; minimum guarantee charges which the Petitioner wants to avoid but cannot avoid.

7. In the circumstances, if the Petitioner is confined to the original terms of the agreement there would be no complication. But the Petitioner desires that the Court should direct the Board to reduce the load and certify the disconnection as illegal, and the matter of period of the one year notice be ignored. Such a direction the Court cannot give.

8. During argument, the Petitioner desired that certain citations be noticed. These citations apparently had not been made before the learned Judge hearing the writ petition. However, the citations as made before the Court are: 1980 B.B.C.J. 200 (207-208) ; Corporation of the City of Nagpur Vs. The Nagpur Electric Light and Power Company Ltd., ; Hotel Satkar Pvt. Ltd. Vs. Bihar State Electricity Board and Others, ; Andhra Pradesh Carbides Ltd. and Another Vs. Andhra Pradesh State Electricity board, Hyderabad and Others, ; I.V.O. Pharmaceuticals (P) Ltd. and Others Vs. Bihar State Electricity Board and Others and Mahamad Iqbal Vs. The State of Bihar and Others None of the citations reflects on the issues between the Petitioner and the Board.

7. The appeal is dismissed.