

(2020) 02 PAT CK 0313

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 3749 Of 2020

M/S Nandan Ghar Sansar Developers Pvt. Ltd

APPELLANT

Vs

Bihar State Power (Holding) Company Limited And Ors

RESPONDENT

Date of Decision : 24-02-2020

Acts Referred:

Citation : (2020) 02 PAT CK 0313

Hon'ble Judges : Mohit Kumar Shah, J

Bench : Single Bench

Advocate : Niraj Kumar, Vinay Kirti Singh

Final Decision : Dismissed

Judgement

1. The present writ petition has been filed by the petitioner for providing fresh power connection to the petitioner and to direct the respondents to refund the security money, deposited by the petitioner with respect to the previous connection.

2. The brief facts of the case, according to the petitioner, is that initially, the petitioner had taken an electricity connection in the year, 2012 from the erstwhile Bihar State Electricity Board vide Consumer no. HT-45, however subsequently, billing dispute had arisen and on account of non-payment of the outstanding electricity dues, a Certificate case bearing no. 221 of 2015 was lodged against the petitioner for recovery of outstanding electricity bill to the tune of Rs. 8,73,51,173/-, whereafter the petitioner is stated to have filed his objections, however the Certificate Officer referred the matter before the learned Collector, Muzaffarpur to get the matter inquired by a third party, whereafter the Chief Commercial Officer, ESSEL, Muzaffarpur had examined the matter and submitted an inquiry report dated 19.05.2018 and a sum of Rs. 1,65,28,571/- was found recoverable from the petitioner herein. The Certificate Officer is stated to have ascertained the amount recoverable from the petitioner to be a sum of Rs. 1,65,28,571/- and to that effect, an order dated 25.08.2018 was passed,

whereafter the Certificate Officer vide order dated 17.11.2018, directed the petitioner to make payment of the aforesaid certificate amount in 10 equal monthly instalments by depositing the same in the office of the Certificate Officer, while requesting the Executive Engineer, Muzaffarpur to refund the security amount of the old connection. The petitioner is then stated to have submitted an application for grant of fresh HT connection of 2500 KVA load along with the requisite fees, whereupon the General Manager (Rev) of the respondent-Company, vide order dated 16.02.2019, had directed the Electrical Superintending Engineer, Electric Supply circle, Muzaffarpur to provide a fresh HT connection to the petitioner herein, however subject to the petitioner depositing 10 post-dated cheque of a sum of Rs. 1,65,28,571/- in the local office of the respondent- Company, before executing a fresh HT agreement as also subject to the respondent- Company challenging the order of the Certificate Officer, however it was also stated in the said order that a separate Clause, to the said effect, should be inserted in the HT agreement. Thereafter, the Electrical Superintending Engineer, Electric Supply circle, Muzaffarpur, vide letter dated 22.02.2019 had sanctioned contract demand of 2500 KVA load under HTSS category to the petitioner herein for running an Induction Furnace. It was also mentioned in the said letter dated 22.02.2019 that though the order of the Certificate Officer, Muzaffarpur dated 25.08.2018 is being challenged before the Hon'ble High Court, however, in the meantime it has been decided that in case the respondent- Company succeeds before the Hon'ble High Court and the amount determined by the Certificate Officer, Muzaffarpur is found less, the balance amount would be transferred in the new connection account of the petitioner and would be deemed to have been undertaken to be paid by the petitioner. The said letter dated 22.02.2019 also postulates deposit of initial security money of a sum of Rs. 91,25,723/- in cash or in the shape of demand draft in favour of the respondent-Company.

3. The petitioner had then requested the respondent-Company to grant instalment facility for payment of the initial security amount and in response thereof, Electrical Superintending Engineer, Electric Supply circle, Muzaffarpur, vide letter dated 01.03.2019, informed the petitioner that the competent authority has been pleased to grant instalment facility for payment of additional security deposit of a sum of Rs. 91,25,723/- in accordance with Clause 7.15.1(b) of Bihar Electricity Supply Code, 2007. It appears that thereafter, the petitioner was informed vide letter dated 05.04.2019, written by the Electrical Superintending Engineer (HT) that as per the BERC order dated 14.06.2017, passed in Case no. 1 of 2017, before grant of fresh connection in the same premises with the same name and style, such consumer has to pay 30% of the total dues as additional instalment and the balance arrear has to be paid in maximum five monthly equal instalments along with the current bill and interest on reducing balance. The petitioner is stated to have then represented before the Managing Director, NBPDC, Patna vide letter dated 08.04.2019, however the same has been rejected.

4. The learned counsel for the petitioner has not been able to show any illegality or infirmity in the decision of the respondent-authorities, inasmuch as the petitioner has been rightly directed to deposit 30% of the total outstanding dues (arrears) as first instalment and the balance amount of arrears in five equal monthly instalments, which is in accordance with the order dated 14.06.2017, passed by the Bihar Electricity Regulatory Commission in Case no. 1 of 2017. Moreover, as far as payment of 50% of the amount of initial security deposit, by way of demand draft and payment of the rest amount of security deposit in two equal monthly instalments, is concerned, the same is also in consonance with Clause 7.15.1(b) of Bihar Electricity Supply Code, 2007. The only plausible argument adduced on behalf of the petitioner is that the security deposit along with interest pertaining to the old connection is neither being refunded nor adjusted against the arrears/ fresh security deposit to be paid by the petitioner herein.

5. Having regard to the facts and circumstances of the case, considering the submissions of the learned counsel for the parties and from a bare perusal of the materials on record, this Court is of the view that the demand being made by the respondent-Company, both with regard to the liquidation of old arrears as also with regard to the security deposit to be furnished for grant of new connection, are in accordance with the prevailing rules, regulations and other connected laws, as aforesaid, hence I do not find any merit in the present petition, thus, the same stands dismissed, however with liberty to the petitioner to approach the Chairman-cum-Managing Director, Bihar State Power (Holding) Company Limited by filing appropriate representation for the purposes of adjustment of the old security deposit along with the interest thereupon. It is expected that in case, the petitioner approaches the Chairman-cum-Managing Director, Bihar State Power (Holding) Company Limited by filing appropriate representation, the entire grievance of the petitioner shall be considered by the Chairman-cum-Managing Director, Bihar State Power (Holding) Company Limited and a reasoned and a speaking order shall be passed within a period of four weeks of filing of such representation by the petitioner herein.