

(2009) 01 PAT CK 0029
In the Patna High Court
Case No : CWJC No. 16687 of 2008

M/s. Neel Kamal Steels Pvt. Ltd.

APPELLANT

Vs

The Bihar State Electricity Board and Others

RESPONDENT

Date of Decision : 20-01-2009

Acts Referred:

Citation : (2009) 3 PLJR 852

Hon'ble Judges : Ramesh Kr. Datta, J

Bench : Single Bench

Advocate : S.D. Sanjay and Shabina Rubab, for the Appellant; Vinay Kirti Singh, for the Respondent

Judgement

Ramesh Kr. Datta, J.—Heard learned counsel for the parties. The petitioner has come to this Court for setting aside the impugned punitive bill dated 31.10.2008 by which a sum of Rs. 1,36,44,482/- has been raised against the petitioner-Company by the respondent-Bihar State Electricity Board and further for a direction upon the respondents to restrain them to take any coercive step against the petitioner-Company for disconnection of electricity line for enforcing payment of the said punitive bill.

2. It is the case of the petitioner that the entire matter has arisen out of a fire which had broken out in the meter room of the petitioner's premises on 19.5.2008 and upon the information given by the petitioner's employee, necessary action was taken by the authorities of the respondent-Board. Thereafter, a joint inspection report was made on 19.5.2008 and again on 20.5.2008. A report was also sought from the Forensic Science Laboratory which has given its report on 3.7.2008. It is further pointed out that a report dated 21.6.2008 has also been submitted by the Assistant Divisional Fire Control Officer, Patna. It is submitted by the learned counsel for the petitioner that in all the reports there is absolutely no charge of any tampering or manipulation having been done by the petitioner. It is contended that only on the basis of a report submitted by the NIT, Patna, on 27.10.2008 an FIR has been lodged on

31.10.2008 and thereafter the aforesaid provisional punitive bill dated 31.10.2008 for a sum of Rs. 1,36,44,482/-has been raised.

3. It is urged by learned counsel for the petitioner that even the NIT, Patna report dated 27.10.2008 is subsequent to an earlier report given on 24.9.2008 in which the test result of the NIT, Patna regarding the CTPT metering unit, duly signed by the persons conducting the test as also the representative of the petitioner, was given and according to the said report nothing untoward was found. Subsequently on a letter written by the Electrical Superintending Engineer of the Board to the NIT, Patna on 24.10.2008 another so-called test report dated 27.10.2008 has been sent in which certain changes have been reported based upon the alleged original test result but nothing has been shown as to whether such test result was made in presence of and under the signature of the representative of the petitioner. It is submitted that in the counter affidavit of the Electricity Board also nothing has been brought on the record to show that the subsequent test report dated 27.10.2008 is based upon the test results taken in presence of and under signature of the representative of the Board.

4. Learned counsel for the Board, on the other hand, submits that once the CTPT report dated 27.10.2008 is examined, it is evident that tampering has been made in the CTPT metering unit in the premises of the petitioner causing huge loss to the respondent-Board.

5. Upon consideration of the aforesaid facts and circumstances, this Court is of the view that the petitioner has prima facie succeeded in showing to the Court that the raising of the provisional punitive bill on the basis of the subsequent report by the NIT, Patna, may not be fully justified. However, according to this Court, the said matter is written the ambit of the criminal court which is to be decided on the basis of evidence to be produced by the parties in course of trial and no final finding can be given at this stage.

6. In the aforesaid circumstances, the writ application is disposed of with the direction that the petitioner shall not be liable to pay at present anything more than the amount of 25% of the aforesaid punitive bill of Rs. 1,36,44,482/- dated 31.10.2008 until the matter is decided by the court below in accordance with law. Whether the amount already paid is liable to be refunded to the petitioner or what further amounts are to be paid by it will abide by the order of the court below.