

(2001) 07 PAT CK 0025

In the Patna High Court

Case No : C.W.J.C. No's. 7576, 7851, 8100, 8109 and 8286 of 2001

Raja Packaging Pvt. Ltd. and Others

APPELLANT

Vs

The Bihar State Electricity Board and Others

RESPONDENT

Date of Decision : 11-07-2001

Acts Referred:

Citation : (2001) 3 BLJR 1667

Hon'ble Judges : Radha Mohan Prasad, J

Bench : Single Bench

Judgement

Radha Mohan Prasad, J.—As in all those writ petitions, the question involved is common with consent of parties, they have been heard together and are being disposed of by this common order.

2. In all these writ petitions, all the petitioners have low tension industrial connection for running their business. According to the learned Counsel for the petitioners, connected load of the petitioners is within 500 K.V.A. and are covered by the Industrial Policy of 1993-95 as well as the Circular of the Board bearing No. 625 dated 11 -10-1996. It is submitted that the petitioners are exempted from payment of monthly minimum consumption charges, yet the respondent-authorities have arbitrarily raised bills on the basis of monthly minimum consumption charges despite the law settled by the apex Court in the case of K.D. Industries v. Bihar State Electricity Board 2001 (3) PLR 28 (SC).

3. Earlier on the request of the learned Counsel for the Board, these matters were adjourned on 5-7-2001. this Court was shocked to find that the authorities have acted in contravention of the law already settled by the apex Court. However, on the request of the Board, the matter was adjourned to enable him to take instructions. The Court expressed that meanwhile, the authorities of the Board will make necessary corrections in all such bills by following the principle decided by the apex Court.

4. A counter-affidavit has been filed on behalf of the Board. Mr. Shukla, learned

Senior Counsel appearing for the Board has submitted that there cannot be any doubt that the cases covered by the aforesaid decision of the apex Court are entitled for the benefit of exemption from payment of monthly minimum consumption charges, but before doing so the consumers will have to satisfy the Board that they come within the policy decision and the law settled with respect to it by the apex Court.

5. Learned Counsel for the petitioners has submitted that such consumers are being harassed as is evident from the fact, that in the case of M/s. Sarvottam Laminate (P) Ltd. of 2001 C.W.J.C. 7996 despite the order of this Court, the claim of the petitioners has not been finally disposed of in accordance with the direction and in the meanwhile, a certificate proceeding has also been initiated against them.

6. At this stage, without expressing any final opinion, this Court feels that if what has been stated by the learned Counsel for the petitioners is correct, then it is really unfortunate. However, it is expected that the respondent-authorities of the Board shall be cautious in dealing with the claim of the present petitioners to avoid any harassment to the petitioners.

7. Having regard to the facts and circumstance, as agreed, these writ petitioners are disposed of with the direction that the petitioners shall approach the Financial Controller (Revenue) of the Board along with relevant materials and document in support of their claim within two weeks and the Financial Controller shall consider the same and finally dispose it of by a reasoned order within four weeks of the receipt of the representation. If the Financial Controller requires any further material, then he shall inform the respective petitioners to furnish the same within a week of the receipt of the representation and on receipt of it, the petitioner concerned shall submit papers within a week thereafter. However, the claim must be disposed of within the aforesaid time.

8. In case the Financial Controller finds that any of the petitioners is exempted from payment of the said charges but the payment has already been made by them, the same shall be adjusted in future bill and where their connection has been withdrawn, the same shall be refunded within a week. However, in the meanwhile, the respondent-authorities shall raise the bill only on the basis of the actual consumption made by the petitioners", which will be subject to final decision of the Financial Controller of the Board.

9. Having regard to the facts and circumstances, as prayed by Mr. Shukla, the adverse observation made in the order dated 5-7-2001 is hereby recalled.

10. As prayed by Mr. Shukla, learned Senior Counsel appearing for the Board let a copy of this order be supplied to him for necessary action.