

**(2003) 01 JH CK 0129**

**In the Jharkhand High Court**

**Case No : Writ Petition (S) No. 5675 of 2001**

Vishwa Nath Singh

APPELLANT

Vs

Bihar State Electricity Board and Others

RESPONDENT

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**Date of Decision : 07-01-2003**

**Acts Referred:**

**Citation : (2003) 4 JCR 367**

**Hon'ble Judges : Vikramaditya Prasad, J**

**Bench : Single Bench**

**Advocate : I Sen Choudhary, Kalyan Roy and Ashok Kumar, for the Appellant;  
Ajit Kumar, for the Respondent**

**Final Decision : Allowed**

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## **Judgement**

Vikramaditya Prasad, J.—Heard both sides.

2. This writ has been filed for quashing annexure-3 whereby and whereunder the Inquiry Officer after concluding enquiry submitted his report to the Disciplinary Authority on 8.8.2001 and the disciplinary authority agreeing with the findings of the Inquiry Officer that the some charges had been proved decided to punish the petitioner and issued a second show cause upon the petitioner on 6.11.2001.

3. This impugned order has been attacked on two grounds.

The first ground of attack is that earlier when the petitioner moved this High Court in C.W.J.C. No. 1815 of 2001 for quashing the departmental proceeding a learned single Judge of this Court has directed as follows:--"Accordingly, without going into the merit of this case, the respondent Bihar State Electricity Board is directed to conclude the departmental proceeding, if already concluded, within three months from the date of receipt/ production of a copy of this order and submit a report to the disciplinary authority, who will take a final decision on the basis of such report within three weeks thereafter, failing which the departmental proceeding initiated against the petitioner, shall stand automatically quashed."

According to the petitioner this departmental proceeding automatically stood quashed because even though the enquiry report had been submitted on 8.8.01 but the final order should have been passed by the disciplinary authority in view of the aforesaid order of the High Court latest by 29.8.01 (within three weeks) was not passed by this time rather it was passed on 6.10.2001 and still this is not final order rather second show cause has been issued to the petitioner.

4. The second ground of attack is that as the petitioner is posted within the jurisdiction of J.S.E.B. therefore the B.S.E.B. had no authority to pass any order against the petitioner, in view of a decision rendered by one of the Bench of this Court in Bilom Cases.

5. The learned counsel for the respondents B.S.E.B. has controverted the argument of the learned counsel for the petitioner on following grounds, firstly referring to annexure-1 he said that the very cause title of the case shows that J.S.E.B. was the party and thus their advocates had appeared in this case and thus the B.S.E.B. was not the party, Subsequently he said that the copy of the order was received by the B.S.E.B. vide annexure-R/1 through the letter sent by the Assistant Electrical Engineer, Electric Supply Sub-Division, Jadugoda, Jamshedpur on 18.6.2001. A certified photo copy of the said order was also received from the High Court by the B.S.E.B. on 24.12.2001 which was sent by the High Court's office on 14.12.2001. He contends that the ratio of the Bilom Case does not apply in the fact and circumstances of the case.

6. I have given a second look upon the order passed by the Hon"ble Court in C.W.J.C. No. 1815 of 2001. The cause title reads as follows:--

C.W.J.C. No. 1815 of 2001 Vishwa Nath Singh v. Jharkhand State Electricity Board and Ors. For the Petitioner : Mr. Kalyan Roy Mr. Nand Kishore Prasad Sinha For the respondent J.S.E.B. : Mrs. I. Sen Choudhary Mr. Sudhir Kumar Sharma

7. The order (supra) in clear terms directs the respondent B.S.E.B. to conclude the departmental proceeding. Thus this direction was given exclusively to the B.S.E.B. It further says that the departmental proceeding has to be concluded within three months from the date of receipt/production of a copy of this, Certified copy may or may not be obtained by the board from the High Court. The only requirement for the compliance of this order was that the copy should have been received by the B.S.E.B. The certified photo copy had already been received by the B.S.E.B. as per reading of annexure-R/1. Though the learned counsel for the respondent B.S.E.B. says that no certified copy or the order has been received, but on the strength of Annexure-R/1, I find myself in disagreement with his such argument. As per Annexure-R/1 certified photo copy was sent to the board by one of its own functionaries, therefore, it is not open to the board to say that the copy was not received. Be as it may, copy was received on 18.6.2001 therefore even computing from that date the inquiry should have been concluded within three months and a final order should have been passed within three weeks thereafter. This enquiry was concluded within that period of

three months and submitted to the disciplinary authority to pass the final order within three weeks thereafter. But here is the lapse on the part of the disciplinary authority because only then second stage of order (supra) arrived, therefore by virtue of this order of the High Court the proceeding has automatically took quashed. That order of the High Court has not been challenged and therefore this order of the High Court stands effective with obvious consequence. Once this finding is arrived at, I do not find any reason to delve into the other grounds raised by the learned counsel for the petitioner and respondent.

8. In this view of the matter as the departmental inquiry has automatically become quashed, no order is being passed. The J.S.E.B. can take their own action if so advised against the petitioner, the writ is allowed.