

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18682 of 2016

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1. North Bihar Power Distribution Company Ltd. Patna through its Chief ENgineer (Commercial), Vidyut Bhawan Bailey Road, Patna
 2. The Chief Engineer Commercial, North Bihar Power Distribution Company Ltd, Vidyut Bhawan Bailey Road, Patna
 3. The Electrical Superintending Engineer, Electric Supply Circle, Purnia
 4. The Electrical Executive Engineer, Electric Supply Division, Purnia

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Energy Department, Government of Bihar, Patna
2. M/s Kiran Cold Storage through its Partner Sri Pankaj Kumar Nayak Son of not Known, Badrwan Hata PS-Khajanchi Hat District Purnia

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ratan Prasad Sinha, Advocate
For the State	:	Mr. Pramod Kumar Singh, GP 34
For the Respondent No.2:		M/s Suraj Samdarshi, Awinash Shekhar Abhilasha Jha Simran Kumari, Advocates

CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 11-09-2026

1. The Writ petition is filed for the following reliefs:

“For issuance of a writ of certiorari to set-aside the appellate order dated 21.03.2016 passed by the Appellate Authority under Section 127 of the Electricity Act 2003 in Appeal No.02/2013-14 (Annexure-12), through which, the Assessing Authority has been directed to revise the punitive demand and compute



the same for 14 days only. Further it has been held that the order is subject to final order, which would be passed by the special court under Section 154 of the Electricity Act 2003."

2. The brief facts culled out of the Writ petition are that the petitioner-Licensee, a power distribution company, conducted an inspection of the premises of respondent No.2, Kiran Cold Storage, on 22.07.2011, during which extensive tampering of the meter box, meter body, terminal seals and ultrasonic seals was found. An inspection report and seizure list were prepared and an FIR was instituted under Section 135 of the Electricity Act, 2003. A provisional assessment of about Rs.48.74 lakh was thereafter made, which was subsequently reduced to about Rs.41.92 lakh by the final assessment order dated 09.08.2011.

3. The Respondent No.2 preferred an appeal under Section 127 of the Electricity Act, 2003. By the impugned order dated 21.03.2016, the Appellate Authority did not dispute the occurrence of theft, but restricted the assessment



to 14 days, i.e. from 09.07.2011, the date of the last meter reading, to 22.07.2011, the date of inspection, on the reasoning that the period of unauthorised use could not be presumed beyond the last meter reading.

4. The Learned counsel for the petitioner submits that the Appellate Authority erred in restricting the assessment to 14 days merely on the basis of the last meter reading. It is submitted that routine meter reading cannot establish that the meter was free from tampering on that date, as detection of theft is ordinarily made through inspection based on information regarding unauthorised use. The extensive tampering found during inspection, coupled with the seizure and inspection reports, clearly established the commission of theft, and there was no justification for limiting the assessment period on mere presumption. The Learned counsel, therefore, submits that the impugned order dated 21.03.2016 is unsustainable and is liable to be set aside.

5. The Learned counsel for the petitioner,



referring to the supplementary affidavit, submits that the MRI report of the meter, as reflected from the certified order sheet of the criminal case, disclosed that the actual consumption was being obstructed by an implanted device operated through a remote, resulting in imbalance of current in the three phases. The MRI report further indicated that the tampering had commenced from 16.08.2010, i.e. about twelve months prior to the inspection.

6. It is submitted by the Learned counsel for the petitioner that this subsequent technical material directly supports the petitioner's case that the alleged theft was not confined to the 14 days preceding the inspection and that the period of unauthorised use was ascertainable from the meter data itself.

7. The Learned counsel for the petitioner further submits that the monthly meter reading relied upon by respondent No.2 cannot be treated as a technical inspection of the meter, particularly when the meter-reading records do not contain the



relevant old and new seal numbers. Such routine meter reading, therefore, could not have been made the basis for presuming that there was no tampering prior to 09.07.2011.

8. The Learned counsel for the petitioner submits that the MRI report and the contemporaneous inspection material, taken together, establish that the period of manipulation was ascertainable and that the Appellate Authority erred in restricting the assessment merely from 09.07.2011 to 22.07.2011.

9. At this juncture, the Learned counsel for the respondent No. 2 contended the issue involved in the present Writ petition is no longer *res integra*. It is contended that the issued stands squarely covered under the order dated 21.11.2025 passed in **CWJC No. 19868 of 2013 (The South Bihar Power Distribution Company Ltd. Vs. The State of Bihar & Ors.)** by this Court in which this Court has passed the order in light of the judgment passed by the Division Bench of this Court in the case of (Mosmat



Swaran @ Swaran Man Ra Vs. THE State of Bihar & Ors.) reported in **(2012) 2 PLJR 229**, this writ petition may also be disposed of on the same terms and conditions.

10. Heard the Learned counsel for the parties and perused the records of the case.

11. In **The South Bihar Power Distribution Company Ltd. (supra)** this Court has held as follows:

"4. On the other hand, Mr. Suraj Samdarshi, learned counsel for the consumer / respondent no. 3, placed a judgment of this court rendered in the case of Mosmat Swaran v. The State of Bihar reported in 2012 (2) PLJR Page 229 and submits that under Section 154 (5) & (6), the Special Court has been constituted for determining the civil liability against a consumer or a person in terms of money for theft of energy. The distribution company, without availing the remedy before the Special Court, has filed the present writ application.

5. Considering the aforesaid submissions made by the parties and the fact that the criminal case lodged by the Power Distribution Company is pending before the Special Court as such, in my



opinion, it is in the interest of justice to refer the matter to the Special Court for determining the civil liability also against Respondent No. 3 / Consumer. Accordingly, the petitioner is directed to file a separate petition before the Special Court where the criminal proceeding is pending challenging the impugned order of Electrical Inspector, dated 27.12.2012, within a period of 30 days. If such an application is filed, the Special Court shall dispose the same in accordance with law by a reasoned order.

6. With the aforesaid direction and observation, the present writ application is disposed."

12. Having regard to the submissions made by the parties, the present writ petition stands disposed of in terms of the aforesaid order passed in **CWJC No. 19868 of 2013 (The South Bihar Power Distribution Company Ltd. Vs. The State of Bihar & Ors.)** (supra).

13. Accordingly, the petitioner is directed to file a separate petition before the Special Court where the criminal proceeding is pending challenging the impugned order dated 21.03.2016, within a period of 30 days. If such an



application is filed, the Special Court shall dispose the same in accordance with law by a reasoned order.

14. With the aforesaid direction and observation, the present Writ application is disposed.

15. Interlocutory Application(s), if any, shall stand disposed of.

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.09.2026
Transmission Date	

