

IN THE HIGH COURT OF JHARKHAND AT RANCHI
L.P. A. No. 348 of 2015

M/s. Bihar Structural Engineering, a proprietorship firm having its factory at Ranchi Road, Marar, Ramgarh through its proprietor Sri Prem Chand Jain, son of late Kashmiri Lal Jain, resident of Ranchi Road, P.O. Marar, P.S. Kuju Sadar, District Ramgarh, Jharkhand.

... .. **Appellant**

Versus

1. Jharkhand Urja Vitran Nigam Limited (formerly known as Jharkhand State Electricity Board) through its Chairman, Ranchi.
2. Electrical Superintending Engineer, Electric Supply Area, Hazaribagh.
3. Electrical Executive Engineer, Ramgarh Electric Supply Area, Ramgarh.
4. Sri Omprakash, the then Electrical Superintending Engineer, Electric Supply Circle, Hazaribagh.
5. Jharkhand State Electricity Regulatory Commission, Ranchi.

... .. **Respondents**

For the Appellant : Mr. N.K. Pasari, Advocate
 For the Respondent-State : Mr. Ajit Kumar, Sr. Advocate

CORAM: HON'BLE MR. JUSTICE VIRENDER SINGH, CHIEF JUSTICE
HON'BLE MR. JUSTICE SHREE CHANDRASHEKHAR

09/Dated: 17th March, 2016
Per Virender Singh, C.J.

What appears from the impugned order that the writ petition stands disposed of directing the appellant-writ petitioner to file application before the concerned Special Court (Electricity) under Section 154 of the Electricity Act, 2003 (hereinafter to be referred to as "the Act of 2003"), raising all the points taken in the writ application.

2. If one peruses the writ application, the main challenge thrown to the assessment order is on account of want of jurisdiction of the assessing authority, who has made the

assessment after getting the criminal case of theft of electricity registered against the appellant. The grievance of the appellant before the Writ Court was that the officer concerned was not authorized in terms of Section 135(1-A) of the Act of 2003 and it is not a case of theft also as per Clause 11.5 of Chapter 11 of Gazette Notification of Regulatory Commission, therefore not sustainable. All these aspects cannot be decided by the Special Court (Electricity) on an application to be moved by the appellant in terms of Section 154 of the Act of 2003, as the Special Court has to determine the civil liability only on culmination of the trial of the criminal case. In view of the above, a reasoned order on these aspects is called for.

3. The net result is that, the appeal on hand is allowed, impugned order of learned Writ Court set aside and the entire matter remitted to learned Writ Court for its consideration afresh.

4. The parties are directed to appear before the learned Writ Court on 01.04.2016.

(Virender Singh, C.J.)

(Shree Chandrashekhar, J.)