IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3292 of 2017

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M/s. Venky Steel Private Limited Son of late Brahmdeo Prasad Resident of Srikrishna Nagar, P.O and P.S. Begusarai, District Begusarai.

... ... Petitioner/s

Versus

1. The Bihar State Power Holding Company Limited Vidyut Bhawan, Bailey Road, Patna through its Chairman-cum-Managing Director
2. The North Bihar Power Distribution company Limited,Vidyut Bhawan, Bailey Road, Patna, through its Managing Director
3. The Chief Engineer Commercial,North Bihar Power Distribution company Limited, Vidyut Bhawan, Bailey Road, Patna
4. The Electrical Superitending Engineer, North Bihar Power Distribution company limited, Electric Supply Circle, Purnea
5. The Electrical Executive Engineer, Commercial and Revenue, North Bihar Power Distribution Company Limited, Electric Supply Circle, Purnea.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	M/s Suraj Samdarshi Avinash Shekhar, Abhilasha Jha Simran Kumari, Advocates
For the Respondent/s	:	Mr. Kunal Tiwary, Advocate

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT
Date : 27-07-2026

1. The petitioner has filed the Writ application for the following reliefs:

> *"(i) For quashing of the order dated 9.2.2017 passed in Appeal Case No. 10 of 2014 by the Electricity Ombudsman, Bihar Electricity Regulatory Commission, by which despite acknowledging the fact that the petitioner was not supplied energy to the extent of its contract*

demand, the learned Ombudsman refused to grant remission, rather asked the parties to approach the Bihar Electricity Regulatory Commission for making such provision, as being wholly illegal and arbitrary and contrary to the agreement.

(ii) For a direction to the respondents not to take any coercive step for realization of the bill dated 9.11.2009 issued against minimum guaranteed charges during the period when the transformer was burnt and the supply was not to the extent of contract demand, in terms of the agreement; and for any other relief or reliefs to which the petitioner is found entitled."

2. The brief facts culled out of the Writ petition are that the petitioner is engaged in the business of manufacturing alloy steel ingots through an electrical induction furnace, for which electricity is an essential raw material.

3. The petitioner entered into a High Tension Specified Service (HTSS) Agreement dated 27.02.2006 with the erstwhile Bihar State

Electricity Board for a contract demand of 1887 KVA with 33 KV supply for running its industrial unit. The petitioner stated that under the applicable tariff, HTSS consumers are liable to pay demand charges based on the contracted load, which presupposes assured supply of electricity by the licensee.

4. It is the case of the petitioner that in the month of October, 2009, due to breakdown of the 50 MVA transformer at Purnea Grid Sub-Station, there was severe disruption in power supply and the petitioner could not operate its induction furnace due to insufficient and interrupted supply of electricity. Despite of several representations dated 04.07.2009, 03.09.2009, 04.09.2009, 08.09.2009 and 09.10.2009, the electricity supply could not be restored to the required level.

5. The Learned counsel for the petitioner submits that the failure of the respondents to supply electricity to the extent of the contracted demand, a bill dated 09.11.2009 for

the month of October, 2009 was raised charging minimum guarantee/demand charges amounting to approximately Rs.13.20 lakhs.

6. Aggrieved by the said action, the petitioner earlier approached this Court by filing C.W.J.C. No.15450 of 2009, which was disposed of with liberty to approach the Consumer Grievances Redressal Forum constituted under the Electricity Act, 2003. The Consumer Grievances Redressal Forum, after considering the matter, observed that the petitioner's claim for remission on account of interrupted and insufficient power supply was justified, but directed the respondents to approach the Bihar Electricity Regulatory Commission for framing an appropriate mechanism for remission. The appeal preferred before the Electricity Ombudsman was also disposed of without granting the remission claimed by the petitioner.

7. The grievance of the petitioner is that despite the admitted fact of interrupted and insufficient power supply, the respondents have charged the petitioner on the basis of 100%

minimum guarantee without granting proportionate remission for the period during which the required electricity supply was not made available.

8. The Learned counsel for the petitioner further submits that the HTSS tariff structure itself, is based on the presumption that the licensee would ensure supply of electricity up to the contracted demand, and the petitioner has been charged demand charges on the basis of such assurance.

9. It is submitted that during the relevant period, due to failure of the respondents to supply electricity to the extent of the contracted demand owing to the breakdown of the transformer, the petitioner's industrial unit remained non-functional and, therefore, charging the petitioner for 100% of the contracted demand without granting proportionate remission is wholly unjust and arbitrary.

10. The Learned counsel for the petitioner further submits that the Consumer

Grievances Redressal Forum itself recorded a finding that the petitioner's claim for remission was justified, but the petitioner has not been granted any effective relief. It is contended that the absence of a specific formula in the tariff cannot deprive the petitioner of the benefit of remission when the respondents failed to supply electricity as agreed under the agreement.

11. It is submitted that demand charges are payable on the basis of the maximum electricity supplied up to the contracted demand. When the licensee fails to provide electricity up to the contracted demand, it would be inequitable to charge the consumer for the entire contracted load.

12. The Learned counsel for the petitioner further contends that the action of the respondents in raising bills without considering the actual supply position is arbitrary and violative of Article 14 and Article 19(1)(g) of the Constitution of India and prayed that the impugned orders passed by the Consumer Grievances Redressal

Forum and the Electricity Ombudsman are to be set aside and appropriate remission be granted to the petitioner for the period of insufficient power supply.

13. In support of his submissions, the Learned counsel for the petitioner relied upon the rulings passed by Hon'ble Supreme Court in ***Raymond Limited vs. Madhya Pradesh Electricity Board*** **(2001 (1) SCC 534, paragraph 21)** and ***Tata Iron & Steel Company vs. Bihar State Electricity Board*** **(AIR 1989 Patna 119, paragraph 12)**.

14. A counter affidavit was filed on behalf of the respondent Nos. 2 to 5. Learned counsel appearing on behalf of the respondent Nos. 2 to 5 submits that the present Writ petition is not maintainable and is liable to be dismissed.

15. It is submitted by the Learned counsel for the respondents that the petitioner has challenged the order dated 09.02.2017 passed by the Electricity Ombudsman in Appeal Case No. 10 of 2014, whereby the claim of the petitioner for

remission in maximum demand charges was not accepted. It is submitted that the Consumer Grievances Redressal Forum, vide order dated 11.06.2014 passed in Case No. 15 of 2013, had already considered the claim of the petitioner and found that in absence of any provision in the tariff for such remission, the petitioner was not entitled to the relief claimed.

16. The Learned counsel for the respondents submits that the petitioner is a HTSS consumer having a contract demand of 1887 KVA with 33 KV supply and is governed by the tariff provisions applicable to HTSS category. Under the applicable tariff, the billing methodology itself provides for consideration of hours of supply and minimum monthly charges, and therefore, the petitioner cannot claim any further remission beyond the provisions contained in the tariff.

17. It is further submitted by the Learned counsel for the respondents submitted that the petitioner is wrongly relying upon Clause 13 of the earlier HT agreement, which has no

application to HTSS consumers after introduction of the special tariff applicable to HTSS category. The tariff framed by the Bihar Electricity Regulatory Commission has statutory force and is binding upon both the licensee and the consumer.

18. The Learned counsel for the respondents further submits that the electricity supply to the petitioner was made through Gulabbagh Sub-Station from a 20 MVA transformer and the allegation of complete disruption of supply due to breakdown of the 50 MVA transformer at Purnea Grid Sub-Station is incorrect and misleading. The bills raised for the period in question were prepared strictly in accordance with the applicable tariff provisions. The tariff already contains a mechanism for calculation of minimum charges based on the actual hours of supply and the petitioner has already been given the benefit available under the tariff. Therefore, no further remission against maximum demand charges is permissible.

19. The Learned counsel for the

respondents accordingly contends that there is no illegality in the orders passed by the Consumer Grievances Redressal Forum and the Electricity Ombudsman, and the present Writ petition, being devoid of merit, is liable to be dismissed.

20. Heard the Learned counsel for the parties and perused the records.

21. The Hon'ble Apex Court in ***Raymond Limited (supra***) observed in paragraph 21 as follows:

> *“21**.** So far as the cases under consideration and the liability of the consumers relating to minimum guarantee are concerned, the relevant clause relating to minimum guarantee charges as well as the tariff notification relied upon, would go to show that what was guaranteed was not the payment of a flat sum or amount of money to be calculated with reference to a particular number or percentage of units, dehors the quantum of electrical energy distributed and supplied by the Board. In other words, the guarantee was of “... such minimum consumption as when calculated at the tariff...” will yield a particular*

monthly/annual sum to the Board. Even going by the tariff notification which prescribes also a minimum entitling the Board to collect it [vide clause 21(b)] it merely casts liability on the consumer to "guarantee a minimum monthly consumption equivalent to 40% load factor of the contract demand". Consequently, for the consumer to honour his/its commitment so undertaken to give a minimum consumption there should essentially be corresponding supply by the Board at least to that extent, without which the consumption of the agreed minimum is rendered impossible by the very lapse of the Board. The minimum guarantee, thus, appears to be not in terms of any fixed or stipulated amount but in terms of merely the energy to be consumed. The right, therefore, of the Board to demand the minimum guaranteed charges, by the very terms of the language in the contract as well as the one used in the tariff notification is made enforceable depending upon a corresponding duty, impliedly undertaken to supply electrical energy at least to that extent, and not otherwise. It is for this and only reason we find that the ultimate *conclusion arrived at by the Full Bench of the High Court does not call for any interference in these appeals.”*

22. The Division Bench of this Court in ***Tata Iron & Steel Company (supra)*** observed in paragraph 12 as follows:

> “***12.*** *The words ‘constant supply of electrical energy’ must mean that continuous supply of electrical energy. That to us appears to be the plain meaning of the words used. In the modern context where even our day to day life is so much dependent upon supply of electricity, it is not too much to expect that the Board should supply electrical energy throughout the 24 hours. However, having regard to the fact that annual charges are payable by consumers who generally require electrical energy in larger quantities than any ordinary domestic consumer for carrying on his business or establishment, the annual charges payable by him have a direct relationship with the supply of electrical energy to him at a time when he can consume the supply. The minimum guaranteed consumption itself implies that the energy is supplied when it can be*

consumed. No doubt, even beyond his normal working hours, such a consumer requires electrical energy for other purposes, such as security lighting etc. However, the consumption for such purposes is so small as compared to the main purpose for which electrical energy is taken, that it may be ignored in the matter of determining the liability for annual charges. So viewed, 'constant supply' in the context of annual charges must mean continuous supply during the normal working hours of the consumer when the supply can be consumed. This to us appears to be a fair interpretation of the agreement having regard to its purpose, commercial nature and preacticability. We are of the view that when the Board wants a guarantee from the consumer about minimum units it would consume, any prudent businessman would agree to pay that amount only if the Board fulfils its obligation. If in fact it is found that there had not been constant suppy of electricity at the contract demand during the period the factory of the petitioner was expected to work, the petitioner can certainly claim that it is entitled to a reduction in annual charges proportionate to the period for *which there was no supply of electrical energy or supply as per the contract demand. The case of TISCO is that its units at Adityapur complex work 24 hours and electrical energy at the contract demand is required for all 24 hours. It was urged that in this case, constant supply must, therefore, mean constant supply for 24 hours. On behalf of the Board it was not stated that TISCO's units at Adityapur complex do not work for 24 hours.”*

23. Upon considering the rival submissions advanced by the learned counsel for the parties and on perusal of the materials available on record, this Court finds that the core issue involved in the present Writ petition is with regard to the entitlement of the petitioner for remission in maximum demand charges on account of failure of the respondents to supply electricity to the extent of the contracted demand.

24. It is not in dispute that the petitioner is an HTSS consumer having a contract demand of 1887 KVA with 33 KV supply and that the petitioner was liable to pay charges as per the

applicable tariff. The grievance of the petitioner is that despite the obligation of the licensee to supply electricity, as per the contracted demand, the petitioner was subjected to demand charges without granting proportionate remission for the period during which adequate supply was not made available.

25. This Court finds that the Consumer Grievances Redressal Forum as well as the Electricity Ombudsman failed to properly appreciate the effect of the contractual obligation and the tariff provisions in the light of the law laid down by the **Hon'ble Supreme Court in Raymond Limited vs. Madhya Pradesh Electricity Board** and the judgment of this Court in **Tata Iron & Steel Company vs. Bihar State Electricity Board**.

26. The Hon'ble Supreme Court has categorically held that the concept of minimum guarantee charges is not an unconditional liability of the consumer and such liability is dependent upon the corresponding obligation of the licensee

to supply electricity to the required extent. Similarly, this Court in **Tata Iron & Steel Company (supra)** has held that where the licensee fails to provide supply at the contracted demand, the consumer is entitled to claim proportionate reduction in charges.

27. In the present case, the Forum as well as the Ombudsman have proceeded on the ground that there was no specific provision or formula in the tariff for granting remission

28. The absence of a specific formula cannot defeat the substantive right of the consumer, when the obligation of the licensee to supply electricity at the contracted demand is not fulfilled. The authorities were required to examine the claim of the petitioner, in the light of the contractual terms and the principles laid down by the Hon'ble Supreme Court and this Court.

29. Therefore, this Court is of the considered view that the orders passed by the Consumer Grievances Redressal Forum and the Electricity Ombudsman do not stand the test of law

and require interference in exercise of jurisdiction under Article 226 of the Constitution of India.

30. Accordingly, the order dated 09.02.2017 passed by the Electricity Ombudsman, Bihar Electricity Regulatory Commission in Appeal Case No.10 of 2014 is hereby quashed and set aside.

31. Accordingly, the Writ petition is allowed.

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

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.08.2026
Transmission Date	