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Court : Patna

Decided On : Apr-08-2003

Judge : Ravi S. Dhavan, C.J. and R.N. Prasad, J.

Acts : Bihar Government Premises (Rent, Recovery and Eviction) Act, 1956

Appeal No. : L.P.A. No. 736 of 1996

Appellant : Bihar State Electricity Board

Respondent : The State of Bihar and ors.

Advocate for Def. : Ashok Kumar Singh, SC 3

Advocate for Pet/Ap. : Mihir Kumar Jha, Adv.

Disposition : Appeal allowed

Judgement :

Ravi S. Dhavan, C.J.

1. The Bihar State Electricity Board filed a Writ Petition No. (C.W.J.C. No. 11055/95, Bihar State Electricity Board v. State of Bihar and Ors., when it faced proceeding under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, and a show cause notice was issued to it In reply it took the stand that it was not an unauthorised occupant. The Court declined to interfere and, in effect, certified that the proceeding has rightly been taken out and the Bihar State

Electricity Board could not resist the proceeding taken up under the Act aforesaid. Learned counsel appearing on behalf of the Board desires that reference may be understood as under Bihar Government premises (Rent, Recovery and Eviction) Act, 1956, and not the Central Government enactment.

2. The Board has filed this present Letters Patent Appeal. This appellate division of the Court finds an aspect rather unusual that the Bihar State Electricity Board, a State in itself as a creature of a statute should be in lis with the State of Bihar. It is virtually the State fighting with the State. Such situations are to be discouraged. The Patna High Court has already taken a view on this in the case of State of Bihar and Ors. v. Janardan Rai and Anr., 2003(1) B.L.J.R., 493. Learned State Counsel, SC III, informed the Court that the view of the Patna High Court has been impliedly upheld in the recent decision in Re. Chief Conservator of Forest, Government of A. P. v. Collector and Ors., 2003 AIR SCW 1251. Clearly this matter has to be sorted out within the Government.

3. It is necessary to note the circumstances in which the Bihar State Electricity Board had to file the writ petition. It appears that a Hon'ble member of the legislative assembly was showing more interest than was necessary in attempting to have an accommodation allotted to himself. This accommodation was possessed by the predecessor-in-interest of the Board. A lease had originally been granted to the Patna Electric Supply Company Limited. By a statutory requirement the assets of the Patna Electric Supply Company Limited stood transferred and vested in the Board. The Board, thus, became the successor and assign of the original lessee. The grant was made under the Government Grants Act, 1985, (at the time of assignment of the lease known as the Crown Grants Act, 1895,) about 50 years ago. The grant was made in 1926. The tenure of the lease was to remain until 1976. The possession remained with the Board, when it was vested with the interest of the Company. It was a lessee holding over. The Board was not an unauthorised occupant. Further, the Court has reservations that a member of the legislative assembly could meddle with the possession which rightly vested with a lessee whoever it might be as the grant had been made legally under the law.

4. The Government estates, in any case, are regulated by the Khas Mahal Manual in Bihar. If a lease can be granted to fishermen's co-operative societies under the Manual as a preference, the Court can hardly certify that the Board may not hold such a lease in the discharge of its functions. The Board, by law discharges its functions to provide essential services for production and distribution of electricity. This function is discharged under the Electricity Act, 1910, and the Electricity (Supply) Act, 1948. Even the erstwhile Patna electricity Supply Company was as a licensee providing essential services.

5. However, one thing is clear that these matters have to be sorted out within the Government and such a situation should not be presented that a public corporation and the State, which created it, are at loggerheads in Court. The Chief Secretary should, thus, notice the decision of the Supreme Court, the one given recently as also other decisions of the Supreme Court noticed by this Court in re. Janardan Rai (*supra*). The solution on the renewal of lease is an aspect which has to be resolved within the Government.

6. An argument was made by learned State Counsel that the premises in question perhaps may have been allotted to the High Court. The High Court is not impressed with this submission. The State should not complicate the matter more than it is necessary. Clearly, the Government of Bihar was under pressure by a member of the legislative assembly to allot the premises to him. An out of the context attempt as made by the State in bringing the High Court in this matter is misplaced politics. This was a cheap tactic to dislodge a rightful claimant to a renewal of lease by unnecessarily attempting to complicate the matter. The matter will remain between the Board and the State of Bihar.

7. A copy of this order be sent to the Law Secretary, Bihar.

8. The appeal is allowed with the observations as above.

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