

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 6114/2023

[Arising out of impugned final judgment and order dated 16-12-2022 in WPC No. 3704/2012 passed by the High Court of Jharkhand at Ranchi]

CASTRON TECHNOLOGIES LTD.

Petitioner(s)

VERSUS

THE DAMODAR VALLEY CORPORATION & ORS.

Respondent(s)

(IA No. 62650/2023 - EXEMPTION FROM FILING O.T., IA No. 62651/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 21-11-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA

HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

For Petitioner(s) Mr. Navaniti Prasad Singh, Sr. Adv.
Mr. Dhananjay Pathak, Adv.
Mr. Vaibhav Niti, AOR
Mr. Vijayraj Singh Chouhan, Adv.
Ms. Madhavi Agrawal, Adv.

For Respondent(s) Ms. Madhumita Bhattacharjee, AOR
Ms. Srija Choudhury, Adv.
Ms. Debarati Sadhu, Adv.
Mr. Anant, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Heard learned Senior Counsel appearing for the petitioner.

By the impugned judgment in the writ petition filed by the petitioner, the High Court directed the competent authority to take a fresh decision strictly in accordance after following with the procedure laid down under Section 126 of the Electricity Act, 2003

(for short, 'the 2003 Act').

The submissions are two-fold. Firstly, learned Senior Counsel for the petitioner submitted that after acquittal of the appellant for the offence punishable under Section 135 of the 2003 Act, there cannot be any adjudication for unauthorized user of energy. He pointed out that order of acquittal has been passed by the competent criminal court on the ground that the prosecution failed to prove theft of electricity. His second submission is that the Special Court which tried the offence has not made determination of civil liability in accordance with sub-section 5 of Section 154 of the 2003 Act, therefore, the competent authority empowered to exercise power under Section 126 of the 2003 Act cannot make any adjudication.

Even if theft of electricity is not established in prosecution, there is always a power vesting in Section 126 of the 2003 Act to issue a demand for unauthorized user of energy. Therefore, acquittal of the appellant will not prevent the respondent from initiating proceedings under Section 126 of the 2003 Act.

As regards sub-section 5 of Section 154 of the 2003 Act, the Special Court gets jurisdiction to determine civil liability in the event it is found that the consumer or person concerned has committed theft of energy. In this case, the finding of the Court was that the charge of theft has not been established. Therefore, there were no occasion for the Special Court to make adjudication under sub-section 5 of Section 154 of the 2003 Act.

Hence, we find no merit in the Special Leave Petition. We however, make it clear that the direction issued in terms of paragraph 27 of the impugned judgment shall be implemented strictly in accordance with provisions of Section 126 of the 2003 Act and the relevant regulations. We also make it clear that the issue whether there is any unauthorized user of energy by the appellant is expressly kept open and the appellant can raise all contentions in that behalf while raising objections in accordance with Section 126(3) of the 2003 Act. All contentions on that aspect are left open.

Subject to what is observed above, the Special Leave Petition is dismissed.

Pending application(s), if any, shall stand disposed of.

(KAVITA PAHUJA)
ASTT. REGISTRAR-cum-PS

(AVGV RAMU)
COURT MASTER (NSH)