

IN THE HIGH COURT OF JUDICATURE AT PATNA  
CWJC No.4615 of 2009  
M/S DINA METALS LTD. .  
Versus  
THE STATE OF BIHAR & ORS .  
with  
CWJC No.12726 of 2009  
M/S KAMPER CONCAST LIMITED .  
Versus  
THE STATE OF BIHAR & ORS .  
-----

04. 30.11.2010 Heard learned counsel for the petitioners, for  
the State and for the Bihar State Electricity Board.

The petitioners seeks the incentive as  
promised by the State under the Industrial policy,  
2006, insofar as the exemption from minimum  
guarantee with regard to consumption of electricity for  
the period specified is concerned, irrespective of the  
category of consumers.

Both the petitioners and the Electricity  
Board appear to be having their own interpretations of  
the Industrial policy, 2006 more particularly Clause- I  
(XII) which deals with exemption from A.M.G./M.M.G.

The policy has been framed by the State  
Government. What was passing the mind of the State  
Government when the policy was framed and what its  
true, intent, purpose and scope is well known to the  
State Government itself. The Board is only required to  
act under the policy. For that reason, Clause-XII of the  
policy specifically provides for the constitution of a

committee for monitoring and review of the policy under the Chairmanship of the Secretary, Industries comprising of the Director of the Industry, Director Technical Development and Representative each of the Commercial Taxes Department and Bihar State Electricity Board (wherever necessary) as well as the concerned Managing Director of the Area Development Authority or its member. It is not without reason that the State has included the Bihar State Electricity Board as a member of the policy committee whenever necessary. What interpretation the State Government intended and the manner in which the Board does so, is for the State Government to and monitor.

It is indeed very unfortunate that the policy having been framed by the State Government, the controversy having arisen between the petitioners and the Board with regard to the interpretation of the policy, the State Government has filed a very short cryptic counter affidavit of four pages in hardly seven paragraphs, the others being ornamental, declining to have anything to do with the matter. Perhaps, if the officials of the State Government were a little more cautious in their approach, this Court may not have been burdened with this writ application.

If the policy provides for the constitution of a

committee, there is no occasion for this Court to usurp powers of the committee. The jurisdiction of the Court may or may not arise in judicial review after committee applies its mind.

The writ application is disposed with direction to the Secretary, Industries to constitute the committee in accordance with the policy forthwith, and after due opportunity to the petitioners to represent their case passed a reasoned and speaking order on the mode, method, manner and intent of the incentive to be granted to the petitioners preferably within a maximum period of four months from the date of receipt/production of a copy of this order.

The writ applications stand disposed.

P.K.

**( Navin Sinha, J.)**

