

GAHC010076052019



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/2365/2019

MANORANJAN MEDHI
S/O HANGSHADHAR MEDHI, R/O N.H. 37, P.O. GOTANAGAR- 781033,
JALUKBARI, GUWAHATI, DIST. KAMRUP (METRO), ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP. BY THE PRINCIPAL SECY. TO THE GOVT. OF ASSAM, POWER
(ELECTRICITY) DEPTT., DISPUR, GHY.-6.

2:THE ASSAM POWER DISTRIBUTION COMPANY LIMITED
H.O. BIJULI BHAWAN
5TH FLOOR
PALTAN BAZAR
GHY.- 781001
REP. BY ITS CHAIRMAN.

3:THE MANAGING DIRECTOR
ASSAM POWER DISTRIBUTION COMPANY LTD
5TH FLOOR
BIJULEE BHAWAN
PALTAN BAZAR
GHY.-01.

4:THE CHIEF GENERAL MANAGER (D AND S)
ASSAM POWER DISTRIBUTION COMPANY LTD. (LOWER ASSAM REGION)
BIJULEE BHAWAN
5TH FLOOR
PALTAN BAZAR
GHY.-01.

5:THE GENERAL MANAGER
GUWAHATI ZONE-CUM- CHAIRMAN

CONSUMER GRIEVANCES REDRESSAL FORUM
ASSAM POWER DISTRIBUTION COMPANY LTD. (LOWER ASSAM REGION)
SIX MILE
GHY.-22.

6:THE CHIEF EXECUTIVE OFFICER
GUWAHATI ELECTRICAL CIRCLE-II
ASSAM POWER DISTRIBUTION COMPANY LTD. (LOWER ASSAM REGION)
JALUKBARI
GHY.-12.

7:THE SUB-DIVISIONAL ENGINEER
JALUKBARI ELECTRICAL SUB-DIVISION
ASSAM POWER DISTRIBUTION COMPANY LTD. (LOWER ASSAM REGION)
JALUKBARI
GHY.-12

Advocate for the Petitioner : MR. B D KONWAR SR. ADV.

Advocate for the Respondent : SC, APDCL

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

Date : 19-10-2023

1. Heard Mr. H. Agarwal, learned counsel for the petitioner. Also heard Mr. B. Choudhury, learned Standing Counsel for the respondent nos.2 to 7. No one appear for the respondent no.1.
2. The subject-matter of dispute is demand of arrears from the petitioner towards energy charges and surcharges. When the electricity connection of the petitioner's business unit was disconnected, the petitioner approached this Court by this writ petition. When the writ petition was moved on 08.04.2019, the Court directed the respondent APDCL authorities to restore electricity connection to the business unit of the petitioner, subject to payment of Rs. 50,000/- within 7 [seven] days. In addition to the above, the petitioner was directed to pay

current dues and, on the next date of listing i.e. 27.05.2019, the petitioner was also directed to submit payment schedule of the outstanding dues.

3. Mr. H. Agarwal, learned counsel for the petitioner submits that Rs.50,000/- was deposited in April, 2019 and that the petitioner has been paying his current dues regularly. He submits that the subsequent Rs.50,000/- that was to be deposited in terms of the order dated 04.08.2023 passed by this Court and submission of the schedule of payment to be made by the petitioner in instalments, has not been done till date.

4. On the other hand, Mr. B. Choudhury, learned Standing Counsel, APDCL submits that as per the last order, he had been directed to obtain instructions as to whether there was any scheme for waiver of surcharge, which could be applied for by the petitioner. He submits that in terms of the Office Memorandum dated 20.09.2023 issued by the APDCL, there are various schemes for waiver of surcharge and the scheme that may be applicable to the petitioner is "Scheme-B-1 : 100% Waiver of Surcharges". He submits that the said scheme was initially valid from 20.09.2023 to 30.09.2023 and thereafter the validity of the scheme was extended up to 31.10.2023. He submits that unless the waiver of surcharge is allowed by the APDCL, the writ petitioner would have to pay the total arrear dues as claimed by the APDCL.

5. I have heard the learned counsels for the parties.

6. It is noticed that while this writ petition had been filed on 04.04.2019 and the same had been listed firstly on 08.04.2019, the next date of listing was after nearly 4 (four) years i.e. 17.02.2023. As per the order dated 04.08.2023 passed by this Court, the learned counsel appearing for the petitioner had made a submission that he would deposit a further amount of Rs.50,000/-, out of the

arrear demand made by the APDCL, along with the schedule of payment to be made by the petitioner through instalments. However, the same has not been done. Accordingly, this Court is of the view that the subsequent Rs.50,000/- that was undertaken to be paid by the petitioner, should be paid within October, 2023. The above being said, the Office Memorandum dated 20.09.2023 provides various schemes for waiver of surcharge and the Office Memorandum dated 05.10.2023 shows that the validity of the schemes is up till 31.10.2023.

7. In view of the above, the petitioner is given the liberty to approach the APDCL, for consideration of the demand of waiver of surcharge, in terms of the schemes available and provided under the Office Memorandum dated 20.09.2023. The APDCL shall take a decision on the proposal submitted by the writ petitioner and communicate the said decision to the petitioner, if the proposal has been made within the validity period of the schemes. In the event that the waiver of surcharge is not allowed, the petitioner would have to submit a schedule of payment to be paid through instalments to the APDCL, who shall consider the same and/or file an appeal to the Ombudsman under Chapter IV Regulation 5 of the Assam Electricity Regulatory Commission (Redressal of Consumer Grievances) Regulations, 2022, as the Consumers Grievance Redressal Forum's judgment/order dated 01.02.2019, which requires the petitioner to pay arrear energy charges and surcharges, has not been put to challenge till date. Thus, as can be seen from the above, an alternative efficacious remedy is available to the petitioner. Though the appeal provision, i.e., Regulation 5 provides for a period of 30 (thirty) days within which an appeal can be made, this Court is of the view that the petitioner's application for condonation of delay in filing the appeal, if any, should be considered sympathetically by the Appellate Authority.

8. The writ petition is accordingly disposed off.

JUDGE

Comparing Assistant