

GAHC010223382024



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

Case No. : WP(C)/5445/2024

DEEPANKAR HANDIQUE
S/O- PARAMANANDA HANDIQUE, R/O- VILL- JAGOON GAON, P.O. AND P.S.
NAHARKATIA, DISTRICT- DIBRUGARH, ASSAM- 786610, PH- 97066-10567

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, POWER (ELECTRICITY) DEPARTMENT,
DISPUR, GUWAHATI- 781006

2:THE ASSAM POWER DISTRIBUTION COMPANY LIMITED
REGD. OFFICE- BIJULEE BHAWAN
PALTAN BAZAR
GUWAHATI- 781001 ASSAM
REPRESENTED BY ITS MANAGING DIRECTOR

3:THE CHIEF GENERAL MANAGER (COMMERCIAL)
ASSAM POWER DISTRIBUTION COMPANY LID.
BIJULI BHAWAN PANBAZAR
GUWAHATI- 781001

4:THE MANAGER
ASSAM POWER DISTRIBUTION COMPANY LTD.
NAHARKATIA ELECTRICAL SUB-DIVISION
MILAN NAGAR GADHI NAGAR
P.O. NAHARKATIA
DISTRICT- DIBRUGARH ASSAM

5:THE SUB-DIVISIONAL ENGINEER
NAHARKATIA ELECTRICAL SUB-DIVISION
APDCL UAR NAHARKATIA
DISTRICT- DIBRUGARH ASSA

Advocate for the Petitioner : MR. B D KONWAR SR. ADV., MR J SINGH,MR H AGARWAL,MR P DOLEY

Advocate for the Respondent : SC, APDCL,

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA
ORDER**

Date : 24.10.2024

Heard Mr. B. D. Konwar, learned Senior counsel for the petitioner. Also heard Mr. K. P. Pathak, learned counsel for the APDCL.

2. The petitioner's case is that an electricity connection had been provided by the Assam Power Distribution Company Limited (APDCL) to the petitioner's premises located at village Jagoon Goan, Naharkatia, Dibrugarh District since 28.03.2024. The connection was registered in the name of the petitioner's grandfather, Khireswar Handique, with Consumer No. 219000002464 and Meter No. AS707493. Following the passing away of the petitioner's grandfather on 27.08.2003, the electricity connection continued to remain in the name of the petitioner's father. However, the petitioner had been paying the bills to the APDCL. The petitioner's further case is that the electricity connection fell under the commercial category.

3. On 10.09.2015, the petitioner received an electricity bill for the period from 02.08.2015 to 01.09.2015, amounting to Rs. 52,627.2.

4. Being aggrieved with the said bill, the petitioner filed a consumer complaint, vide CC Case No. 01/2016 before the District Consumer Disputes Redressal Commission, Dibrugarh under Section 12 of the Consumer Protection Act, 1986 (hereinafter referred to as 'the CPA, 1986'). The complaint was

dismissed by the District Commission on 01.02.2024, by holding that the petitioner did not qualify to be a consumer under the CPA, 1986. However, despite the said finding, the District Commission proceeded to consider the case on merits and dismissed the complaint based on the findings on merits. Accordingly, the petitioner has prayed for setting aside the impugned judgment dated 01.02.2024, passed by the District Commission, Dibrugarh in CC Case No. 01/2016, in so far as the case of the petitioner has been decided on merits.

5. The petitioner's counsel submits that the petitioner is not challenging the decision made by the District Forum that the petitioner is not a consumer under the CPA, 1986, as the petitioner would have to challenge the bill under the Assam Electricity Regulatory Commission (Redressal of Consumer Grievances) Regulations, 2022.

6. Mr. K. P. Pathak, learned counsel for the APDCL admits to the fact that if the District forum has come to a finding that the petitioner was not a consumer in terms of the CPA, 1986, the District Forum should not have decided the case on merits. However, as there is an alternative remedy to challenge the electricity bill by way of Regulation 4.1 of the Assam Electricity Regulatory Commission (Redressal of Consumer Grievances) Regulations, 2022 (hereinafter referred to as 'the 2022 Regulations'), the petitioner would have to approach the concerned Consumer Grievance Redressal Forum (in short, 'CGRF') under the 2022 Regulations.

7. I have considered the averments made by the parties.

8. Accordingly, this Court is of the view that when the District Forum had

come to a finding that the petitioner was not a consumer in terms of the CPA, 1986, it should not have gone into the issues on merits. As such, the impugned judgment dated 01.02.2024, passed by the District Consumer Dispute Redressal Commission, Dibrugarh in CC Case No. 01/2016 is set aside, only to the extent that the petitioner's complaint had been decided on merits and without disturbing the finding of the District Forum that the petitioner is not a consumer under the CPA, 1986, keeping in view of the facts of this case.

9. The above being said, in view of the fact that there is a forum for redressal for consumer's grievance under the 2022 Regulations, with regard to the electricity bill generated by the APDCL, this Court is of the view that the petitioner would have to avail the alternative remedy available under Regulation 4.1 of the 2022 Regulations and accordingly, the petitioner is given the liberty to approach the CGRF, Guwahati under the 2022 Regulations.

10. The petitioner may approach the concerned CGRF within a period of two weeks from today and the concerned authority shall consider the delay in approaching the said authority in terms of Section 14 of the Limitation Act.

11. No coercive action should be taken by the APDCL during the period of two weeks that is being provided to the petitioner to approach the CGRF with his grievance.

12. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant