

17.12.2020
D/L- 32
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 5208 of 2020

Atikul Mondal
Vs.
West Bengal State Electricity Distribution
Company Ltd. & Ors.

Ms. Manali Biswas

....for the petitioner.

Mr. S. S. Koley

...for WBSEDCL.

The petitioner has challenged the final assessment order dated 10th January, 2020 in respect of unauthorised use of electricity by preferring an appeal before the appellate authority. The appeal was presented within 30 days time period provided under Section 127(1) of the Electricity Act, 2003 (hereinafter referred to as the 2003 Act). The petitioner says that the deposit under Section 127(2) of the 2003 Act for entertaining an appeal be waived and the petitioner's appeal be directed to be heard by the appellate authority without insisting upon payment of 50% of the assessed amount to the licensee.

On behalf of West Bengal State Electricity Distribution company Limited (in short WBSEDCL), it is submitted that the provision of payment for entertaining an appeal as laid down in Section 127(2) of the 2003 Act cannot be waived. The appeal can only

be heard upon such payment or deposit in terms of the provisions of 127(2) of the 2003 Act having been made to WBSEDCL.

After considering the materials on record and hearing the parties, I am of the view that the provision for deposit and/or payment under Section 127(2) for the purpose of the appeal being entertained is a mandatory provision and cannot be relaxed and/or waived.

The writ petition, therefore, fails and is accordingly dismissed without any order as to costs.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Arindam Mukherjee, J.)