

17.12.2020
D/L- 37
(suvendu)

WPA 5257 of 2020

Rabindranath Dey
Vs.
Calcutta Electric Supply Company Ltd. & Anr.

Mr. Indranil Halder,
....for the petitioner

Ms. Nandini Mitra
....for CESC Ltd.

The petitioner approached CESC Limited, the licensee for a new connection. The petitioner's case in brief is that the petitioner resides at a premises in Mukunda Das Pally (Thakurpukur), Kolkata – 700063 (hereinafter referred to as the said premises). The said premises belongs to petitioner's father. Petitioner has been enjoying electricity from the meter which stands in the name of the petitioner's father. The petitioner says that the relationship between the father and son so far as the consumption of electricity is concerned has soured resulting in some disputes for which the petitioner wants a new connection. The petitioner says that under Section 43 of the Electricity Act, 2003 (hereinafter referred to as the Act of 2003) the licensee is obliged to grant electricity, but the

licensee has refused to do so. The petitioner refers to a letter issued by the licensee on 28th January, 2020 and in particular, paragraphs 2 and 3 thereof and submits that the only ground on which the petitioner's application has been rejected is under Clause 14 of Regulation 53 (hereinafter referred as the said Regulation). The said Regulation has been published in the Kolkata Gazette on 2nd April, 2013 by West Bengal Electricity Regulatory Commission. The petitioner also says that the rejection of petitioner's application apart from being devoid of any merit does not clearly say as to why the petitioner has become disentitled to a new electric connection.

CESC Limited refers to Section 43 and Section 2(51) of the 2003 Act to suggest that the definition of premises in Section 2(51) is very clear. The obligation of the licensee is fulfilled the moment the licensee gives a connection to a particular premises as defined under Section 2(51) of the 2003 Act. It is the case of the licensee that in such view of the matter there is no violation of Section 43 of the 2003 Act as alleged by the petitioner. The licensee further refers to Section 22 of the Electricity Act, 1910 (hereinafter referred as the Act of 1910) to show the departure in the definition between Section 22 of the

1910 Act and Section 2(51) of the 2003 Act. The licensee then places Regulation 14 to emphasize upon the fact that the application made by the petitioner, according to licensee, is with the intention of splitting load to obtain the benefit of lower charges. The licensee submits that the petitioner's father is a consumer enjoying electricity. The petitioner admittedly is enjoying electricity while residing at the premises with his father. In the event the petitioner is granted a new connection, then the load already sanctioned in respect of the meter standing in the name of the petitioner's father will be reduced and the same is impermissible under Regulation 14. The licensee also indicates that there are certain technical difficulties also in providing a new connection to the petitioner at the said premises.

It appears from the materials on record that the petitioner is seeking a new meter in his name to be connected to the existing main service at the said premises for his own use and enjoyment so that he is not required to draw electricity from the existing meter at the said premises. The licensee's plea of alleged splitting of load in the light of Clause 14 of Regulation 53 particularly in respect of a domestic connection in the instant case needs to be gone into

in details. The writ court does not have the expertise to go into the technical aspect of the matter involving the licensee's plea of splitting of load while granting a new meter to the petitioner. The licensee should not be concerned with any civil dispute between the petitioner and his father when there is no dispute at this stage that the petitioner is not residing in the said premises.

In Clause 14 of Regulation 53 it is clear that in case of any dispute as to reduction or splitting of load in the event a new connection is sought for, the same has to be settled in the office of the Ombudsman.

Considering the nature of objection raised by CESC Limited, the writ Court will not be able to go into such matter in details at this stage as it involves fact finding and due to lack of expertise. Even if affidavits are called for, the position will not improve.

In the facts and circumstances as aforesaid, I grant leave to the petitioner to lodge a complaint as against the refusal to grant a new connection by CESC Limited as indicated in the letter dated 28th January, 2020 (at page 12 of the writ petition) to the electricity Ombudsman.

The learned Ombudsman shall consider the following issues from all aspects – (1) as to whether the demand made by the petitioner for a new connection is hit by the provisions of Clause 14 of Regulation 53 and will amount to reduction of load or amount to splitting of load. (2) Is there any other technical difficulty in giving the petitioner a new domestic electricity connection at the premises-in-question.

The learned Ombudsman shall pass a reasoned order on the two issues referred to hereinabove within a period of three months from the date of the petitioner approaching the said Ombudsman after hearing the parties. The learned Ombudsman shall be free to decide on the procedures of hearing but should comply with the principles of natural justice.

The petitioner shall approach the learned Ombudsman within 31st December, 2020 taking all points required for adjudication of the two issues hereinabove.

It is made clear that I have not gone into the merits of the case except what has been referred to hereinabove on the basis of the submission made by the respective parties and the learned Ombudsman shall give its findings without being influenced in any manner by the instant order.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of accordingly 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.)