

06.10.2020
S/L - 01
(PP)

WPA 7065 of 2020
with
IA No: CAN 1 of 2020

(via video conference)

Bablu Das
Vs.
CESC Limited & Anr.

Mr. Bidyut Kr. Halder,
Mr. Indranil Halder

....for the petitioner.

Mr. Om Narayan Rai,
Mr. Prashant Agarwal

.....for CESC Ltd.

This is an application filed by a person who is the co-sharer of a building who has applied to CESC Limited for a separate supply of electricity connection and meter. In the said premises his brother also lives. This premises was actually owned by his mother on whose death the existing line has been changed in the name of the petitioner's brother.

After receiving application from the petitioner, CESC Limited through its District Engineer, West Suburban District has sent a letter under reference No.14/07265/20 dated 14th August, 2020 wherein in paragraph 2 it is stated:

“2. The findings from our site inspection indicates that the premises has already been provided with supply of electricity connection and you are deriving supply from an existing

meter thereat. Hence, in our opinion, the instant application for new connection is with the intention of splitting the load to obtain the benefit of lower charges.”

In this paragraph it has been stated that in the opinion of CESC Limited the application for new connection (made by the petitioner) was with the intention of splitting the load to obtain the benefit of lower charges. It is not known how this opinion has been formed by the said District Engineer. There is no mentioning on the basis of which objective satisfaction or assessment he has expressed his opinion that the application was made for splitting the load. Any such assessment or objective basis or any mention of such objective standard is wholly absent in the said letter of CESC. This cannot be done also in this letter which is a system generated letter as is written at the bottom of the letter.

In my view, in the name of forming opinion, CESC Limited cannot write anything and everything which they want to write in a letter to a person who wants a new connection and meter. It is surprising that without any objective standard such a system generated letter has been issued by CESC Limited. This is only a mockery to the power granted to CESC Limited as a monopolist in the field of supply of electricity in Kolkata and its adjoining areas. This letter is wholly bad, without any application of mind

and shows the highhandedness of the monopolist and as it cannot pass the test of reasonableness of law the letter is set aside.

The letter shows that CESC Limited is not ready and willing to give connection to the petitioner. For this they have to show proper reason with objective assessment and satisfaction to the effect that the application for new connection is for splitting of load to obtain the benefit of lower charges.

There is a provision of Ombudsman under Clause 14 of the Regulation No.53 of West Bengal Electricity Regulatory Commission.

This dispute between the CESC Limited and writ petitioner shall be placed before the Ombudsman with CESC's observation reflecting their objective satisfaction as indicated above as to the remark that the petitioner wants to split the load to obtain the benefit of lower charges.

Such observation of CESC Limited is to be filed by it before the Ombudsman within a period of two weeks from date with a copy to the petitioner and it is made clear that if CESC Limited fails to file such observation in writing based on objective satisfaction by the said time period, there shall be no reason for the petitioner for not getting the connection.

This matter is sent to the Ombudsman who will decide the matter in accordance with law after giving opportunity of hearing to the parties.

In course of hearing, the learned advocate appearing for CESC Ltd. placed before me a judgment reported in **AIR 2010 Cal 189** (Md. Wakil Vs. District Engineer, Calcutta Electricity Supply Company & Anr.) showing paragraphs 1 and 2 of the said judgment in support of the letter that such a thing can be written by CESC Limited to the intending consumers.

It is found from paragraph 2 of the said judgment wherein a part of CESC's letter dated March 30, 2010 has been quoted that the reason for denying the supply is completely different and this has no similarity with the present letter which has already been set aside. Therefore, this judgment does not help CESC Limited at all.

With this observation, the writ petition is disposed of along with CAN 1 of 2020.

The Ombudsman will decide the matter within a period of eight weeks from date.

(Abhijit Gangopadhyay, J.)