

09.12.2020
D/L- 30
(PP)

WPA 9467 of 2020

**Mosaraf Hossain @ Babar Ali Sk.
Vs.
West Bengal State Electricity Distribution
Company Limited & Ors.**

Mr. P. S. Bhattacharya, Sr. Adv.,
Mr. Bidyut Baran Biswas,
Mr. Ranjit Rath

....for the petitioner.

Mr. S. S. Koley,
Mr. T. Deb

....for W.B.S.E.D.C.L.

The petitioner challenges the memo, bearing no.PLY/CCC/FIR/167 dated 8th October, 2020 issued by West Bengal State Electricity Distribution Company Limited (In short, “WBSEDCL”) informing the petitioner about the provisional assessment made under Section 126 of the Electricity Act, 2003 on account of unauthorised use of electricity and demanding a sum of Rs.2,44,522/- for the same.

The petitioner is, therefor, disputing the provisional assessment made by WBSEDCL in respect of alleged unauthorised use of electricity. The remedy of the petitioner, therefor, lies in preferring an appeal before the appropriate authority under Section 127 of the Electricity Act, 2003.

The petitioner also submits that no final assessment has been made or given to the petitioner and as such, the time to prefer an appeal, if the

petitioner is relegated to avail such remedy, has not expired.

On behalf of WBSEDCL, it is submitted that the final assessment has been made on 15th October, 2020 pursuant to a hearing for final assessment held on 14th October, 2020. The finally assessed amount is also Rs.2,44,522/-. It is further submitted that the petitioner has refused to accept the final assessment, which is, however, denied by the petitioner.

At this stage without going into the dispute as to whether the final assessment has been served or refusal thereto on the part of the petitioner, justice will be sub-served, according to me, if the petitioner is directed to avail the statutory remedy available to him within a specified time.

Time to prefer an appeal strictly going by the final assessment said to have been made on 15th October, 2020 has expired on 14th November, 2020 assuming without admitting the petitioner has received the same. The time to prefer an appeal under Section 127 can, however, be extended.

In the facts and circumstances of the instant case, I am inclined to extend the same in view of the fact that the instant writ petition has been filed on 18th November, 2020 and is pending till date and as such the petitioner cannot be accused of any unnecessary delay.

The respondent-WBSEDCL and/or its concerned officer is directed to serve a copy of the final assessment order on the petitioner by 14th December, 2020.

It will be open to the petitioner to approach the appropriate appellate authority against such final order of assessment on or before 23rd December, 2020. All points those are available to the petitioner including the challenge to the provisional assessment are kept open for being availed before the appellate authority if the petitioner chooses to prefer an appeal. In the event the petitioner prefers an appeal, the appellate authority shall make all endeavour to dispose of the same as expeditiously as possible but not later than 60 days from the date of filing of the appeal subject to statutory compliance by the petitioner.

Preferring of appeal by the petitioner, if so advised, will not stand in the way of the petitioner making payment of 50 per cent of the final assessed amount for restoration of the electric supply. Such payment, however, will be without prejudice to the petitioner's right in the appeal and the appellate authority, while considering the deposit for entertaining an appeal, should take into consideration the amount that may be paid by the petitioner without prejudice to his right for the purpose of reconnection.

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.)