

04.01.2021
Sl.No.09
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 2429 of 2020

Sitaram Agarwala
Vs.
CESC Limited & Ors.

(Via Video Conference)

Mr. Munshi Mijanur Rahaman
....for the petitioner.

Mr. Madhusudan Saha Roy
....for CESC Limited.

Affidavit of service filed in Court today be taken on record.

The petitioner's electric supply has been disconnected on the allegation that electricity has been provided from the petitioner's meter to one Dr. Kumar Bahadur Singh, having consumer no.35024277004 and meter no.2037782 whose supply had been disconnected long back. It is the further allegation of CESC Limited as recorded in the final order that the supply of Dr. Kumar Bahadur Singh was disconnected on 17th August, 2012. On the last occasion it was submitted that the disconnection of supply of Dr. Kumar Bahadur Singh is under challenge in a writ petition, being W.P. No.21322 (W) of 2015.

In respect of the instant writ petition, a final assessment order dated 22nd February, 2020 has been

produced by CESC Limited which is taken on record. It appears that a sum of Rs.3,883/- is allegedly due and payable for unauthorised use of electricity by the petitioner.

It is unfortunate that the Assessing Officer travelling beyond the scope of his jurisdiction had recorded in the assessment order about the alleged dues in respect of the connection of Dr. Kumar Bahadur Singh who is admittedly a separate consumer and such dues is under challenge in a separate writ petition. This Court does not appreciate this conduct of the Assessing Officer. His name also does not appear in the final order dated 22nd February, 2020. The said Assessing Officer is cautioned that henceforth he should act within the four corners of the statute and should not travel beyond his jurisdiction. He should stick to the case which is before him and not to any other case which is already under challenge in a separate writ petition. This is more so because the Assessing Officer is enjoying certain powers under the statute and should discharge the same following the statutory provisions and rules made thereunder.

Since the final order has been passed under Section 126 of the Electricity Act, 2003 (hereinafter referred to as the 2003 Act) which is appealable under Section 127 of the said Act, this Court permits the petitioner to prefer an appeal against the said final

order by extending the time to prefer such appeal which expired on elapse of 30 days from the date of the order. The time extension to prefer the appeal is granted as the same can be extended and in view of the order passed by the Hon'ble Supreme Court regarding expiry of time to prefer appeal having expired during the pandemic as in the instant case. The appeal should be filed within 20th January, 2021. The petitioner shall pay the sum of Rs.3883/- as mentioned in the final order without prejudice to his right and the amount shall also be accepted by CESC Limited without prejudice to its right.

CESC Limited, within 48 hours from the petitioner depositing the said sum of Rs.3883/-, shall restore the petitioner supply through the meter no.3722218, which is a 'G' type meter under consumer no.35024267008.

In the event the petitioner prefers an appeal within the time frame provided, the appellate authority shall dispose of the appeal within a period of eight weeks from the date of filing of the appeal after affording reasonable opportunity of hearing to the parties. The appellate authority shall restrict its finding to the disconnected supply under the final order dated 22nd February, 2020 and not to any other supply. Since the petitioner is paying the entire amount under the final assessment order without prejudice to his right, the

appellate authority shall not pass any order for any further payment under the provisions of Section 127(2) of the 2003 Act for entertaining the appeal.

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.)