

AD. 45.
December 2, 2021.
MNS.

(Through Video Conference)

WPA No. 2701 of 2007

West Bengal State Electricity Board

Vs.

The Ombudsman, West Bengal Electricity
Regulatory Commission and others

Mr. Sumit Panja,
Mr. Sumit Roy

... for the petitioner.

Mr. Pratik Dhar,
Mr. Ritwik Pattanayak

...for the respondent no. 2.

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

The moot contention in the writ petition is that the Ombudsman acted *de hors* jurisdiction in passing the impugned order dated October 18, 2006, in view of the specific remedy of an objection before the Grievance Redressal Officer (in short 'GRO') having been provided in the governing statute and the corresponding Regulations.

It is submitted by learned counsel appearing for the petitioner that the Ombudsman is only an appellate authority against any order passed by, or inaction of, the GRO and ought not to have entertained the original complaint and passed the impugned order thereon.

Learned Senior Advocate appearing for the respondent no. 2, in his usual fairness, submits that the law is very specific on the subject insofar as the initial jurisdiction of the GRO is concerned. The Ombudsman is only the appellate authority against any order passed by, and/or inaction of, the GRO within the contemplation of law, it is submitted.

Such fairness on the part of the learned Senior Advocate appearing for the respondent no. 2 is appreciated.

The contentions of counsel for both parties are correct, as the Ombudsman is merely the second tier of the hierarchy of challenge within the purview of law in respect of a complaint, which has to be lodged before the GRO at the first instance.

In such view of the matter, the impugned order was passed patently without jurisdiction by the Ombudsman, thereby usurping the jurisdiction of the GRO.

Accordingly, WPA 2701 of 2007 is allowed, thereby setting aside the impugned order dated October 18, 2006 passed by the Ombudsman, annexed at page 37 (Annexure P-9 of the writ petition) [Reference No. WBERC/OMBUD/WBSEB/203/2006/945 dated October 18, 2006].

It is made clear that the merits of the challenge before the Ombudsman have not been gone into by this

Court and it will be open to the complainant before the Ombudsman to lodge a similar complaint and/or move on the same cause of action before the GRO, as provided in law. If so approached, the GRO shall decide the same upon hearing both sides in accordance with law without being prejudiced in any manner by any of the observations made herein.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)