

7th December,
2021
(AK)
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W.P.A 14410 of 2021

Dinabandhu Bisai
Vs.
CESC Limited and others

Mr. Bidyut Kumar Halder
Mr. Indranil Halder
...for the petitioner.

Mr. Rajiv Lall
...for CESC.

Learned counsel for the petitioner contends that the petitioner has challenged a provisional assessment made by the CESC Limited upon disconnection on the allegation of pilferage.

It is submitted that the petitioner is ready and willing to deposit 50% of the assessed amount immediately for the purpose of getting reconnection, pending the challenge which the petitioner will prefer against the final assessment.

Learned counsel appearing for the CESC Limited rightly contends that within the purview of Sections 126 and 127 of the Electricity Act, 2003 the reconnection can be given only in the event the consumer does not challenge the provisional assessment and deposits the full amount within seven days.

Otherwise, merely to prefer an appeal against the final assessment, the consumer has to deposit 50%. Moreover, in the meantime, the final assessment has been made by the CESC, which renders the writ petition infructuous.

The contentions of the CESC Limited are more acceptable in preference to those made by the petitioner. Not only has the matter become infructuous in view of a final assessment having already been done, more importantly, the petitioner has a statutory right to prefer a challenge against the final assessment upon deposit of 50% of the said assessment.

This court cannot go beyond the statute in granting a relief to the petitioner, by directing reconnection upon payment of 50%, which will exceed the relief given in the statute itself.

Such a direction for reconnection would tantamount to allowing the appeal by usurping the jurisdiction of the appellate authority, that too, without any such appeal been preferred.

In such view of the matter, there are no merits in the writ petition.

Accordingly, WPA 14410 of 2021 is dismissed, with liberty to the petitioner to challenge the final assessment made by the CESC Limited before the appropriate appellate authority in accordance with law.

If such an approach is made, the authority shall decide the same upon hearing all interested parties, without being influenced in any manner by any of the observations made herein.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)