

AD. 15.
December 22, 2021.
MNS.

(Through Video Conference)

WPA No. 14568 of 2021
with
WPA No. 15116 of 2021
with
WPA No. 15129 of 2021

Aktar Alam
Vs.
The West Bengal State Electricity
Distribution Company Limited and others

Mr. Animesh Mukherjee

... for the petitioner.

Mr. Srijan Nayak,
Mrs. Rituparna Maitra

...for the WBSEDCL.

Although WPA No. 14568 of 2021, WPA No. 15116 of 2021 and WPA No. 15129 of 2021 are appearing as analogous matters in today's cause list, in view of the causes of action of each of the said writ petitions being admittedly distinct, the matters are being taken up for hearing separately.

Taking up for hearing WPA No. 14568 of 2021 first, the following order is passed:

The writ petition has been preferred against alleged non-consideration of a representation of the petitioner with regard to a communication dated July 28, 2020 (at page 26 of the writ petition), by virtue of which the West Bengal State Electricity Distribution Company Limited (in short 'WBSEDCL') disclosed certain reasons

for the pendency of the new connection as applied for by the petitioner regarding a 'submersible pump'.

Learned counsel for the petitioner, by placing reliance on an order of the Ombudsman dated July 12, 2011, passed in G. R. Case No. W-310K of 2011, seeks to show that the WBSEDCL has defaulted in paying the compensation, which was directed to be paid by the WBSEDCL to the petitioner.

As such, it is submitted that it does not lie in the mouth of the WBSEDCL to refuse a new connection to the petitioner on the ground of non-payment of previous dues.

Learned counsel appearing for the WBSEDCL indicates that the order dated July 12, 2011 has no connection with the present application. The communication dated July 28, 2020, as appearing at page 26 (Annexure P6) of the writ petition, it is submitted, was issued in respect of a new connection sought by the petitioner for the purpose of operating a 'submersible pump'.

Under the extant Regulations, that the WBSEDCL is entitled to claim the arrear dues, if there are any, in respect of the same consumer and/or in respect of the same premises, where a new connection is sought, subject to the applicant having any 'nexus' with the previous defaults.

In the present case, it is submitted that the petitioner himself defaulted in making the previous

payments, for which the authority was entitled in law to claim the arrear dues.

Although, there is justification in the contention of the petitioner that the WBSEDCL ought to have cleared off the dues to the petitioner in terms of the order dated July 12, 2011, the refusal appearing in the communication dated July 28, 2020 on the part of the WBSEDCL to give a new connection unless the previous dues were cleared was within the authority of the WBSEDCL and cannot be faulted in law.

Hence, the remedy of the petitioner does not lie in the form of the present challenge against the communication dated July 28, 2020 inasmuch as the petitioner has no lien on the amount payable by the WBSEDCL pursuant to the order dated July 12, 2011. However, needless to say, the petitioner is always at liberty to urge the complaint of non-payment on the basis of the said order before the appropriate authority, that is, the West Bengal Electricity Regulatory Commission (in short 'WBERC').

In such view of the matter, WPA No. 14568 of 2021 is disposed of without interfering with the impugned communication dated July 28, 2020. The petitioner will be at liberty, however, to approach the WBERC for redressal of the alleged non-payment of the amount of compensation, supposed to be due to the petitioner by virtue of the order dated July 12, 2011 in G. R. Case No. W-310K of 2011. If such an approach is

made, the WBERC shall dispose of the same upon giving hearing to all the interested parties in accordance with law, without being unduly influenced 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.)