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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

W.P.A. No. 16928 of 2021

CESC Limited

-vs.-

The Ombudsman, West Bengal & Ors.

Mr. Om Narayan Rai,
Mr. Debanjan Mukherjee
...for the petitioner

Mr. Subhrangsu Panda,
Mr. Tirthankar
...for the respondent no. 2

The limited grievance of the petitioner, being the CESC Limited, is that the Ombudsman, in violation of Regulation 10.5 of the West Bengal Electricity Regulatory Commission (Guidelines for Establishment of Forum for Redressal of Grievances of Consumers and Time and Manner of Dealing with such Grievances by the Ombudsman) Regulations, 2013, has passed a final order on the basis of the draft order, without giving an opportunity of further hearing to the writ petitioner.

Affidavit of service filed today is kept on record.

It is found that, despite valid service on the Ombudsman, the Ombudsman is not represented in Court today, although the private respondent no. 2 is represented thorough counsel along with the petitioner.

The contention of learned counsel for the respondent no. 2 is that the said respondent is suffering for an indefinite period without electric connection due to delay in the matter.

It appears from the impugned final order of the Ombudsman, dated August 09, 2021, annexed at page 71 of the writ petition, that there is substance in the contention of the petitioner inasmuch as the Ombudsman passed the final order upon deciding certain controversial issues as well, without giving an opportunity of further hearing to the CESC Limited on the draft order.

The language of Regulation 10.5 of the 2013 Regulations is very specific and it is mandatory for the Ombudsman to give an opportunity of further hearing to both the parties on the draft order, only after which the Ombudsman is to pass a reasoned and speaking final order.

In view of gross violation of the said Regulation in the present case, W.P.A. No. 16928 of 2021 is allowed, thereby setting aside the impugned final order of the Ombudsman dated August 09, 2021 and directing the Ombudsman, being respondent no. 1 herein, to give an opportunity of hearing to both sides and pass a fresh reasoned order on the basis of such hearing in connection with the draft order previously handed over to the parties.

Such exercise shall be completed by the Ombudsman upon due notice to both sides, within one month from the date of communication of this order to the Ombudsman.

The parties shall act on the server copy of this order, coupled with the communication of the learned Advocates for the parties, without insisting upon prior production of a certified copy thereof, for the purpose of compliance of this order.

The parties shall serve server copies of this order on the absentee respondent no. 1 at the earliest.

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 of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)