

23rd November,
2021
(AK)
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W.P.A 17731 of 2021

Sanjay Choraria
Vs.
CESC Limited & Others

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

Dr. Madhusudam Saha Ray
Mr. Debanjan Mukherjee
...for the respondents.

The grievance of the petitioner is that the electric supply to the petitioner's premises has been disconnected due to no fault of the petitioner.

As such, since the main electric meter at the premises is standing in the name of a third person, the petitioner seeks to have a new electric connection in the petitioner's own name.

It is contended that, by virtue of Section 43 of The Electricity Act, 2003, there is a duty on the distribution licensee to supply electricity on request, which cannot be curtailed/refused by the distribution licensee, as in the present case.

Learned counsel appearing for the CESC Limited contends that Section 43 is subject to the other provisions of the 2003 Act, including Section 53 thereof. Section 53 relates to safety and electricity supply. Under the umbrella of Section 53, Clause 14 of the West Bengal Electricity Regulatory Commission Act casts a duty on the

distribution licensee to take into account the effect of splitting of load.

In the present case, since the connection is in respect of High Tension wire, such clause has to be taken note of.

By placing reliance on the joint inspection report of the CESC, as appearing at page 21 (annexure P-7) of the writ petition, learned counsel for the CESC submits that it could not be found as to how electric supply was disconnected, although the existing sub-meter in the name of H.R. Infracon Limited, is still live.

As such, it is contended by the CESC that their hands are bound by law and since there are already 36 sub-meters from the same connection and the electric connection in-question pertains to High Tension wire, no further sub-meter or fresh meter can be installed in the premises to afford electric connection to anybody else, since the same will be a risk to the safety and security of the inhabitants of the building and the public in general.

Upon considering the submission of the parties, it is evident from the commencing language of Section 43 of the 2003 that the provisions of the Act applies “*save as otherwise provided*” in the Act and, as such, is subject to the other provisions of the Act.

Section 53 of The Electricity Act, 2003, as rightly pointed out by learned counsel for the CESC Limited, specifically provides for safety measures regarding electric supply.

That apart, Clause 14 of the West Bengal Electricity Regulatory Commission Act specifically takes into consideration the effect of splitting of load, which prevents a new sub-meter being allotted in the name of the petitioner and/or a new electric connection being given independently to the petitioner.

Since the CESC is the best authority and expert in such regard and their act, having been done officially, carries a presumption of correctness, as contemplated under Section 114 of the Indian Evidence Act, which has to be rebutted in the present case, there cannot be any further scope of giving a new electric connection to the petitioner in terms of law.

However, it is always open to the petitioner to approach the appropriate forum for re-connection of electric supply to the petitioner's premises from the existing sub-meter, which was found live by the CESC itself, by taking appropriate legal steps against any third party who might have been instrumental in disconnecting such supply.

However, the reliefs as prayed for by the petitioner cannot be granted in the present case, keeping in mind the provisions of law as discussed above.

Accordingly, WPA 17731 of 2021 is dismissed.

Liberty, however, is given to the petitioner to approach the competent legal forum for ventilation of the petitioner's grievance in the event the disconnection to the petitioner's premises was effected by a third party.

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.)