

16.08.2021
Item No. 10
Crt.No.11
b.r.

MAT 1393 of 2019
IA No. CAN 1 of 2019 (Old No.10738 of 2019)
CAN 2 of 2019 (Old No. CAN 10739 of 2019)

Motibul Miah
Vs.
West Bengal State Electricity Distribution Company
Limited & Ors.
(Via video conference)

Mr. Partha Chakraborty
Ms. Sharmistha China
..... for the appellants.

Mr. Srijan Nayek
Mr. Sujit Sankar Koley
For the respondent nos. 1 to 5

By an order dated 12th March, 2020, this Court had directed the respondents to produce evidence that the provisional assessment order passed under Section 126 of the Electricity Act, 2003 was served upon the appellant/writ petitioner. By an affidavit affirmed on 5th of August, 2021, the respondent/WBSEDCL admitted that they could not trace out the provisional assessment order passed upon the appellant or, for that matter, any document showing that the same was served upon the appellant. The affidavit is taken on record.

The prime grievance of the appellant is that the electricity connection provided to him was cut off without serving a copy of the provisional assessment order. This

precluded him from challenging the same before the appropriate authority.

Learned Counsel appearing on behalf of the respondent/electricity authority admits that they are not in a position to produce the provisional assessment order or any proof of communication of the same upon the appellant. However, the provisional assessment bill along with connected documents are available to them. As such, the WBSEDCL is in a position to pass a fresh order of provisional assessment and proceed afresh, if and so directed.

Having heard the learned Counsel appearing on behalf of the respective parties and considering the materials placed, it transpires that the non-availability of the provisional assessment order has created this impasse. The only way of resolving the issue is to have a fresh order of provisional assessment passed.

Accordingly, the impugned order passed by the Hon'ble Single Bench is set aside. The respondent/electricity authority shall reconnect the electricity connection of the appellant within a week upon observance of all necessary formalities. The respondent-electricity authority shall be at liberty to pass a provisional assessment order afresh and proceed in accordance with law.

With the above directions, the appeal being **MAT 1393 of 2019** with the connected applications, being

CAN 1 of 2019 (Old No.10738 of 2019) and CAN 2 of 2019 (Old No. CAN 10739 of 2019) stand disposed of.

All parties shall act in terms of a copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Jay Sengupta, J.)

(Subrata Talukdar, J.)