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ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE
[Via Video Conference]

WPO/210/2021

M/S. SEBI AND CO. AND ORS.
Versus
CESC LIMITED AND ORS.

BEFORE:
The Hon'ble JUSTICE RAJASEKHAR MANTHA
Date : 18th June, 2021.

Appearance:
Mr. Shaunak Ghosh, Adv.
Mr. Aveek Bose, Adv.
Mr. Rajib Mulick, Adv.
Mr. Rakesh Sarkar, Adv.
...for the petitioners

Mr. Debanjan Mukherjee, Adv.
Mr. M. Saha Roy, Adv.
..for the respondents

The Court : A three-fold grievance is raised by the petitioners. Firstly, that electricity supply to the petitioners was disconnected without complying with the provisions of Clause 4.2.1 of the West Bengal Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2013. It is submitted that the electricity was disconnected on 21st of October, 2020 at 1.50pm at which time inspection was to be undertaken by the CESC Ltd. at the said premises. This Court notes that there is substantial compliance of Clause 4.2.1 since a person against whom electricity theft is alleged, or prima facie found, cannot, insist on detailed compliance of procedure. This Court cannot find fault on the part of CESC in

disconnecting the electricity on the prima facie finding that there is theft of electricity.

The next argument advanced by the petitioners is that the inspection report indicates that the body seals of the meter were found to be tampered with. The petitioners, however, aggrieved by the observation that “the meter was being used to run the electrical gadgets in the nature of A.C., TV, Fridge, light, fan and others”. Counsel for the petitioners submits that this observation does not convey any meaning in the eye of law. Given the fact that there is tampering of the body seals of the meter which prima facie found theft of electricity, this Court does not find any serious infirmity in the findings of the inspection report.

It is lastly submitted that despite the hearing having been conducted, no final order has been passed since after the preliminary assessment. Counsel for the CESC submits that final order of assessment was made on the 17th of November, 2020 and communicated to the petitioners with acknowledgement on 21st November, 2020. This Court, therefore, does not find reason to otherwise entertain the writ application.

It is, however, pointed out by Mr. Saha Roy, lead by Mr. Debanjan Mukherjee, Learned counsel for the CESC that two earlier writ petitions being WPA 11031 of 2020 and WPA 10966 of 2020 were filed earlier in the Appellate Side of this Court in respect of the disconnection, the dismissal of the same has not been indicated by counsel for the petitioners. Mr. Ghosh, learned counsel for the petitioners submits that the same has been recorded in paragraph 14 of the writ application. This Court notes that the only statement made in the said

paragraph is that the writ petitions were withdrawn after detection of errors. It has not been indicated as to whether leave was obtained for filing afresh on the self-same cause of action. Admittedly, no such leave was obtained. This Court, therefore, is inclined to impose costs on the petitioners assessed at a sum of Rs.11,000/- payable to the State Legal Services Authority, West Bengal, within a period of one month from date.

The CESC shall be entitled to pursue payment of the aforesaid sum to the High Court Legal Services Authority. Reconnection of electricity shall not be made to the petitioner unless all assessed dues, reconnection charges and costs as indicated hereinabove are paid by the petitioner.

The writ petition is dismissed.

(RAJASEKHAR MANTHA, J.)

TO