

19.01.2022
SL No. 3
Court No. 24
(P.M.)

WPA 138 of 2022

Biswajit Bose & Anr.

Vs

CESC Limited & Ors.

(Via Video Conference)

Mr. Bidyut Kumar Halder,
Mr. Indranil Halder
... for the petitioners

Dr. Madhusudan Saha Roy
... for the CESC Limited

The petitioner is aggrieved by the order of provisional assessment dated 9th December, 2021 whereby a sum of Rs. 6,20,973/-(rupees six lakh twenty thousand nine hundred seventy three only) has been shown as charges payable for unauthorized use of electricity.

It appears from the findings mentioned in the inspection report dated 9th December, 2021 that the inspection team found direct connection from CESC's LT service cutout bypassing the metering arrangement. During inspection it was found that 20.3 amperes but during photography it trips to 12.5 amperes. Connecting load of one water purifier plant, one A.C., one refrigerator, one T.V. and other electrical appliances were detected.

CESC Limited disconnected the electricity connection of the petitioners immediately on 9th December, 2021.

The learned advocate appearing for the petitioners submits that the said amount is highly exaggerated and offers to pay 50% of the said amount and prays for an order of reconnection of electricity.

The learned advocate representing the CESC Limited submits that on 10th December, 2021 both the petitioners visited the office of the respondent Company and they accepted and confirmed to pay the amount that was mentioned in the provisional assessment order handed over to them.

The petitioners have intentionally and deliberately suppressed the fact of admitting payment of the aforesaid amount.

Provision of Section 126 of the Electricity Act, 2003 has been relied upon.

It appears that according to Section 126(1) of the Act if on an inspection of any place or premises or after inspection of the equipments, gadgets, machines, devices found connected or used, or after inspection of records maintained by any person, the assessing officer comes to the conclusion that such person is indulging in unauthorized use of electricity, he shall provisionally assess to the best of his

judgement the electricity charges payable by such person or by any other person benefitted by such use.

According to Section 126(2) the order of provisional assessment shall be served upon the person in occupation or possession or in charge of the place or premises in such manner as may be prescribed.

Section 126(3) lays down that the person on whom an order has been served shall be entitled to file objections, if any, against the provisional assessment and the concerned officer shall, after affording a reasonable opportunity of hearing to the person pass a final order of assessment.

Section 126(4) lays down that any person served with the order of provisional assessment may, accept such assessment and deposit the assessed amount with the licensee.

The provision for reconnection as appearing in Section 135(1A), third proviso, mentions that the licensee or supplier on deposit of the payment of the assessed amount or electricity charges in accordance with the provisions of the Act, shall, without prejudice to the obligation to lodge the complaint may restore the supply line of electricity within forty-eight hours of such deposit or payment.

Regulation 6.4 of the West Bengal Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2013 mentions that where a consumer served with the order of provisional assessment accepts such assessment and wishes to pay assessed amount, he may submit an application to the licensee in the format as in Annexure 2 within two working days from the date of receipt of the order of provisional assessment and the licensee shall provide within forty-eight hours of receipt of such application to enable the consumer to pay the amount provisionally or finally assessed. On payment against such provisional or final bill by the consumer, the reconnection shall be done within forty-eight hours.

In the instant case, the petitioners have tried to make out a case by filing a supplementary affidavit, that the respondent Company forced the petitioners to sign an affidavit with the threat of police arrest at the time of hearing before the CESC authority. The petitioners have not lodged any complaint before the police alleging such threat by CESC authority.

The petitioners have annexed a copy of the affidavit which they have been allegedly forced to sign by the CESC authority. The said document is an undated piece of paper. It only mentions that the petitioners are liable to pay assessed amount and

settle the matter with CESC Limited. It categorically mentions that the petitioners agree and undertake to pay the amount mentioned in the provisional assessment order plus the reconnection charges for restoration of the supply.

The petitioners, in the writ petition, did not mention anything about the fact of appearing before the respondent authority on 10th December, 2021 immediately after the disconnection was made on 9th December, 2021. The petitioners accepted by signing Annexure 2 on 10th December, 2021 for making payment of the amount as mentioned in the provisional assessment order.

It appears that the petitioners initially visited the office of CESE Limited and accepted to pay the amount assessed in the order of provisional assessment, but thereafter adopted a different stand of admitting payment on threat by CESE officials.

In the event the petitioners were genuinely aggrieved with the amount as mentioned in the provisional assessment order, then necessary objection ought to have been filed by the petitioners before the appropriate authority. Instead of making any objection before the respondent Company the petitioners have admitted to pay the aforesaid charges.

At this stage, the petitioners cannot pray for any direction for payment of only 50% of the assessed amount.

Accordingly, the prayer of the petitioners for payment of only 50% of the assessed amount for the purpose of obtaining reconnection of the electricity line cannot be accepted by the Court.

It will be open for the parties to proceed in accordance with law.

The writ petition fails and is hereby dismissed.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)