

IN THE HIGH COURT AT CALCUTTA
(Constitutional Writ Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Krishna Rao

WPA 139 of 2009

CESC Limited & Anr.

Versus

The Ombudsman & Anr.

Mr. Subir Sanyal

Mr. Rishav Dutt

.....For the Petitioners

Heard on : 15.02.2022

Judgment on : 24.02.2022

Krishna Rao, J.: For the last several dates the respondents are not appearing in the matter, the petitioner had also served notice upon the respondent but inspite of service of notice none appeared on behalf of the respondents.

The CESC Limited had preferred the instant writ application against the order passed by Ombudsman in Grievance Redressal Case No. C-552K of 2008 (Krishna Das -Vs- CESC Limited) dt. 27.10.08 wherein a direction has been issued to the petitioner to take necessary action for affecting

supply connection direct to the complainant by installation of individual meter in favour of the complainant.

The respondent no. 2 Smt. Krishna Das had applied for a separate meter connection for her shop no. A-36, namely Ajanta Digital Studio having an area of 75 square feet situated in Calcutta Greens Commercial Complex at 1050/2, Survey Park, Kolkata- 700075 on 28.12.2006 for a load of 3 KW at commercial rate. On inspection of the shop room on 05.01.2007 it was found that the respondent no. 2 like all other shop owners in the said commercial complex are getting supply through one of the two Block Meters existing at the commercial complex in the name of Calcutta Greens Shop Owners' Association and accordingly the petitioner had informed to the respondent no. 2 for inability for providing a separate meter in the said shop.

On the refusal of the petitioner for grant of separate meter, the respondent no. 2 lodged a complaint with the Central Grievance Redressal Officer of the petitioner Company on 26.09.2007 relating to supply of individual meter in the shop of the respondent no. 2. The Company intimated the respondent no. 2 that her grievance application has been referred to the Deputy Manager (Southern District) who is the Grievance Redressal Officer for supplying of meters pertaining to the area in which the shop of the respondent no. 2 was located. By a letter dt. 27.09.2007 it was further informed to the respondent no. 2 that the Grievance Redressal Officer would investigate the matter and if necessary hearing would be given by him to the respondent no. 2 in order to redress the grievance raised by the respondent no. 2. The respondent no. 2 without waiting for the decision

of the Grievance Redressal Officer, had approached the respondent no. 1, the Ombudsman on 11.10.2007 on the allegation that petitioner has not provided separate meter to the respondent no. 2 in her shop room. The Grievance Redressal Officer vide his letter dt. 27.10.2007 informed the respondent no. 2 that in terms of the agreement of the Company with the West Bengal Housing Board, the shop room of the commercial complex are to be catered from a single point Block Meter supply. It was further informed that as per the agreement, Meter No. 3575949 has already installed by the Company in favour of the Calcutta Greens Shop Owners' Association for catering to the individual shop owners including the respondent no. 2. It was further informed that the issue with regard to obtaining supply from the supply meter for the shop room of the respondent no. 2 may be taken up with the Association. The Officer has further informed that in terms of the agreement, the company is not in a position to entertain the individual requisition for such purposes.

On receipt of the complaint of the respondent no. 2, the respondent no. 1 had initiated proceedings and issued notice to the petitioner and on 27.10.08, the Ombudsman passed an order which is impugned in the instant writ application. The Counsel for the petitioner further submitted that as per Clause 19 of the West Bengal Electricity Regulatory Commission.

“In bustees, markets etc where it may not be possible to segregate one consumer from an adjacent consumer because of existence of very large number of consumers in a relatively small premises, and where because of multiplicity of wirings of such a large number of consumers, there may arise fire and safety hazards, the licensee may affect supply of electricity to all the

consumers/intending consumers through a suitable located common meter of adequate capacity to be known as Block Meter.”

The Ld. Counsel for the petitioner further submitted that the respondent no. 1 has wrongly come to the conclusion that Calcutta Greens Project is well planned newly developed commercial complex constructed by West Bengal Housing Board and the condition is stipulated by the regulation do not hold and the regulation is not applicable in the case of the respondent no. 2.

The Counsel for the petitioner further submitted that the mode of supply to any large commercial/residential complex is normally being decided based on the detailed parameters of the establishment and load requirements furnished by the promoters/builders and not by any individual shop/flat owner.

The Counsel for the petitioner further submitted that the petitioner is providing supply through Block Meters in case of commercial establishments/buildings, particularly market complexes/ residential complexes situated in the congested area and/or bustee areas. It is further submitted that there has been a number of devastating fire in markets and bastee areas in the recent past and therefore, considering the technical aspect and in view of space constrained, the petitioner is advocating the supply through Block Meters.

It is further urged that Block Meter is a Meter of higher capacity which is normally installed in the name of any Association or group of persons who from such an association and supply is derives by the beneficiaries through Block Meters.

It is further submitted that for the sake of convenience the beneficiaries themselves at their own cost purchase and install sub-meter for recording their individual consumption and they pay the purchase for consumption according to the reading recorded in the sub-meter to the registered consumer i.e. the Association or individual.

The Counsel for the petitioner further submitted that Block Meter normally takes care of supply to a group of persons called the beneficiaries and the Company bills the group of persons or the Association on the basis of the registration recorded through the Block Meters with the Provision for rate slap benefit depending on the number of beneficiaries and for measuring their individual consumption, the beneficiaries normally installs their own sub-meters.

The Counsel for the petitioner submitted that all the shop owners of the said complex are getting their connection through Block Meters. Providing separate meter in a market complex will covering number of wires in a small spaces in criss-cross manner, by stretching technical norms and to some extent comprising with the probable electrical and fire hazards.

The Counsel for the petitioner further submitted that providing individual meter to the respondent no. 2 or the other occupants of the said market complex is neither technically feasible nor practical and the same may seriously endanger the life and property and will be potential source of fire hazards. Providing an individual meter to the respondent no. 2 will set a bad precedent as other shop owners in the market complex will allege discriminatory if in future they want individual meters and are denied.

The Counsel for the petitioner submitted that without considering all the aspects, the respondent no. 1 had passed the impugned order which is liable to be set aside.

The Counsel for the petitioner relied upon the judgment passed in the case of Ranjit Mall Kothari and Ors. -Vs- CESC Limited & Ors. reported in 2002 (1) CHN 24 and relying the said judgment submitted that the Hon'ble Court has held that it is not possible to provide separate meters to such a number of occupants in the two blocks of the building.

Considered the submissions made by the Counsel for the petitioner documents available on record and the judgment relied upon by the petitioner.

Admittedly, the respondent no. 2 is having the shop being shop no. A-36 under the name of Style of Ajanta Digital Studio in the Calcutta Greens Commercial Complex and like all other shop owners in the said commercial complex, the respondent no. 2 is getting supply through one of the two Block Meters existing in the said commercial complex in the name of Calcutta Greens Shop Owners' Association. The respondent no. 2 requested the petitioner for grant of individual meter in her shop room but the petitioners have informed the inability to provide separate meter. The respondent initially made a complaint to the Redressal Officer and the Redressal Officer was proceeding with the complaint made by the respondent no. 2 but without waiting the decision of the Redressal Officer, the respondent no. 2 had made a grievance before the respondent no. 1. The respondent no. 1 had initiated proceedings complaint of the respondent no. 2.

The petitioner has informed to the respondent no. 2 that there was an agreement between West Bengal Housing Board who developed and constructed the commercial complex and licensee in the matter of supply of power through Block Meter to the 230 commercial establishments of the complex and also regulation notified under 22/WBERC dt 28.09.2005 which provides for connection of shops through Block Meters and accordingly the petitioners have provided two Block Meter connections to the Shop Owners' Welfare Association through which the individual shop owners are getting electric supply. The respondent no. 2 failed to consider Clause 19 of West Bengal Electricity Regulatory Commission wherein the installation of Block Meters in extremely congested places like "bustees and markets" etc is provided. The respondent no. 1 while passing the order has not considered the relevant provisions provides that in a congested place, where it may not be possible to segregate one consumer from an adjacent consumer because of the existence of a very large number of consumers in a relatively small premises, and where because of multiplicity of wiring of such large number of consumers, there may arise fire and safety hazard, the licensee may effects supply of electricity to all the consumers to the Block Meter. The respondent no. 1 also not considered that it is open to all the independent consumers to obtain their independent lines from the Block Meter with sub meters. The respondent no. 1 has wrongly held that the relevant project is a well planned newly developed commercial complex constructed by the West Bengal Housing Board and the condition stipulated in the relevant Provision would not applicable.

This Court find that the respondent no. 1 without calling for any report and without considering the contentions raised by the petitioner has passed the impugned order by directing the petitioner to take necessary action for supply connection direct to the respondent no. 1 by installation of individual meter.

In view of the above, this Court is of the view that the impugned order passed by the respondent no. 1 in Grievance Redressal Case No. C-552K of 2008 dt. 27.10.2008 is not sustainable under law and the same is accordingly set aside and quashed.

WPA No. 139 of 2009 is thus disposed of.

Parties shall be entitled to act on the basis of a server copy of the Judgment and Order placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)