

11th February,
2022
(AK)
04

WPA 1876 of 2022

(Via Video Conference)

Zakir Hossain @ Zakir

Vs.

The West Bengal State Electricity Distribution Company
Limited and others

Md. Hafiz Ali

Mr. Sk. Saifuddin

...for the petitioner.

Mr. Debjit Mukherjee

...for WBSEDCL.

Learned counsel for the petitioner argues that the petitioner was initially accused of theft by the WBSEDCL, but subsequently acquitted from the criminal case levied against the petitioner on the ground of theft.

Thereafter, upon the petitioner seeking reconnection, the Distribution Licensee refused to give such restoration of connection on the ground that the petitioner had to pay the amount of money charged on provisional, and then final, assessment.

Learned counsel for the Distribution Licensee submits that the writ petition ought to be dismissed for suppression of material facts.

The petitioner, after being discharged in the criminal case, allegedly filed a complaint before the concerned

consumer forum where the petitioner lost and challenged the said order of dismissal in a further appeal.

Such appeal, according to the learned counsel for the Distribution Licensee, is still pending adjudication. It is submitted by the Distribution Licensee that the reliefs claimed in the writ petition and the said proceeding before the consumer forum are substantially similar.

Be that as it may, since the scope of a consumer forum proceeding in respect of damages is somewhat distinctive from the prayer made in the present writ petition, which is restoration of connection purely on the ground of discharge of the petitioner from the criminal case, the writ petition is entertained.

However, it is well-settled that Sections 126 and 127 of the Electricity Act 2003 differ in scope and ambit from Section 135 of the said Act.

It is well-settled that the proceedings taken under the two sets of provisions are parallel and independent of each other.

Moreover, the allegations initially made against the petitioner by the Distribution Licensee encompass not only theft but also “unauthorized use” of electricity in general, which falls within the purview of Section 126 even irrespective of the provisions of Section 135 of the 2003 Act.

As such, the acquittal of the petitioner in the criminal case does not have a direct bearing on the

amount charged as final assessment from the petitioner, more so since the yardsticks of adjudicating the two proceedings, one criminal and one civil in nature, are entirely different insofar as in one, the standard is *'beyond reasonable proof'* while that of the other is *'preponderance of probabilities'*.

As such, the writ petition cannot succeed on the ground of acquittal of the petitioner for the criminal case alone.

However, the Distribution Licensee shall restore the electric connection of the petitioner subject to the petitioner paying all the due amounts which are requisite for such reconnection, including the finally assessed amount and the reconnection charges etc.

If such amount is deposited by the petitioner, the Distribution Licensee shall ensure that the restoration of electric connection of the petitioner is effected expeditiously, preferably within a fortnight from compliance of all formalities, including deposit of the assessed amounts, by the petitioner.

WPA 1876 of 2022 is disposed of in the light of the above observations.

Affidavit-of-service and instruction filed respectively by the petitioner and the Distribution Licensee in court today be kept on record.

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.)