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18.02.2022
TN

WPA No.1946 of 2022

Nazrul Ioslam @ Nazrul Islam

Vs.

West Bengal State Electricity Distribution
Company Limited and others

(Via Video Conference)

Mr. Bidyut Kr. Halder,
Mr. Indranil Halder

.... for the petitioner

Mr. Saurav Chaudhuri

.... for the WBSEDCL

Learned counsel for the petitioner argues that despite having applied for a new electric connection in the year 2016 and depositing the requisite charges, the Distribution Licensee has not yet given such connection to the petitioner. By placing reliance on Section 43(3) of the Electricity Act, 2003 (for short “the 2003 Act”), learned counsel contends that, since the Distribution Licensee has failed to supply electricity within the period specified in Sub-Section (1) of Section 43 of the 2003 Act, that is, one month after receipt of the application requiring such supply,

the licensee is liable to pay a penalty which may extend to one thousand rupees for each day of default.

Learned counsel appearing for the Distribution Licensee hands up a bunch of copies of certain documents in support of the proposition that the West Bengal State Electricity Distribution Company Limited (for short “the WBSEDCL”) personnel detected upon an inspection in the year 2020 that the petitioner had been running a husking mill upon hooking electricity illegally.

Due to such unauthorised use of electricity by the petitioner, a criminal case of theft was registered and, at present, the petitioner is out on bail. It is further submitted that a final assessment was raised. Such dues, as calculated to the present date, comes to around Rs.1,97,780/-.

Hence, it is argued that to bypass such obligation, the petitioner is levelling unwarranted allegations against the Distribution Licensee.

It is clear from a conjoint reading of Sections 43, 126 and 135 of the 2003 Act that the Distribution Licensee is entitled to disconnect electricity upon detecting theft. It is also within the bounds of its authority to make a provisional and then a final assessment of dues, following the mechanism provided in Section 126 of the 2003 Act.

Following the same principle, the authority might have the jurisdiction of refusing new connection to the petitioner as well on the ground of pendency of the criminal proceeding regarding theft and the allegation on that score.

However, it cannot be disputed that, unless the entire amount of dues on the final assessment is cleared by the consumer, the new connection ought not to be given to him/her.

However, at this juncture, learned counsel appearing for the petitioner submits, on instruction, that the petitioner is agreeable to put in the entire amount of dues as alleged by the Distribution Licensee, without prejudice to the rights and contentions of the petitioner in the proceedings in connection with theft.

In view of such stand being taken by the petitioner, WPA No.1946 of 2022 is disposed of by directing the WBSEDCL to give new connection of the petitioner within a week after the petitioner depositing the amount of Rs.1,97,780/-, as well as compliance of all other formalities.

However, it is made clear that such payment and/or acceptance thereof shall not prejudice in any manner the rights and contentions of the Distribution Licensee as well as the petitioner in the other

proceedings in connection with allegation of theft by the petitioner.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)