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15.03.2022
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WPA No.3012 of 2022

Fozlul Haque
Vs.
West Bengal State Electricity Distribution
Company Limited and others

(Via Video Conference)

Md. Zellar Rahaman

.... for the petitioner

Mr. Amitabh Shukla,
Mr. P.C. Pandey

.... for the WBSEDCL

Learned counsel for the petitioner submits that the petitioner received an electricity bill dated September 29, 2021 for dues of a period pertaining to more than two years prior to the date of the bill. It is submitted that in view of Section 56(2) of the Electricity Act, 2003 (hereinafter referred to as “the 2003 Act”), the said claim was time-barred and the bill ought to be set aside.

Learned counsel further argues that it is a debatable question as to whether the West Bengal Electricity Regulatory Commission (WBERC) has the jurisdiction to decide the issue at all.

Learned counsel appearing for the Distribution Licensee submits that one of the bills, the due under

which is also a component of the present claim, was challenged in a previous writ petition before this court.

In the said matter, by an order dated January 21, 2021, a coordinate Bench of this court had directed that the matter be moved before the RGRO. A time-limit was stipulated in the said order. The petitioner was given liberty to approach the RGRO, that is, the Regional Grievance Redressal Officer.

As such, the present challenge, *inter alia*, on the same amount of dues is not maintainable in law.

Undoubtedly, the present writ petition is not maintainable in respect of the specific dues in respect of which the petitioner had moved the earlier writ petition, on which the coordinate Bench judgment was rendered. However, as regards the subsequent bills, the writ petition is not barred by the principle of Res Judicata.

However, as rightly submitted by learned counsel for the WBSEDCL, the extant Regulations under the 2003 Act provide for a forum for the resolution of billing disputes.

Even the question of the claim being time-barred can be set out as one of the grounds of such a challenge, if preferred before the RGRO.

As regards the powers of the WBERC to decide the issue involved in the present writ petition, no such question arises in the present case, since the concerned RGRO is the appropriate authority under the Regulations to decide such disputes.

In such view of the matter, WPA No.3012 of 2022 is disposed of by granting the petitioner liberty to approach the concerned RGRO with the billing dispute as ventilated in the present writ petition.

If so approached, the Regional Grievance Redressal Officer shall decide the question after affording opportunity of hearing to the interested parties, as expeditiously as possible, preferably within two months from the date of such reference to the RGRO.

It is made clear that all questions raised in the present writ petition, including the applicability of Section 56(2) of the 2003 Act, are kept open for being decided by the RGRO, if so moved by the petitioner, on the basis of the materials produced before the RGRO.

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.)