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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 3168 of 2022

(Via video conference)

Sanatan Raj Malla

-vs.-

The West Bengal State Electricity
Distribution Company Limited & Ors.

Mr. Md. Rafiqul Islam

...for the petitioner

Mr. Debjit Mukherjee

...for the WBSEDCL

Learned counsel appearing for the petitioner contends that in view of the Distribution Licensee, that is, the West Bengal State Electricity Distribution Company Limited having raised a provisional assessment bill against the petitioner in respect of the alleged dues of electricity charges, the petitioner gave a representation to the Distribution Licensee, which has not been considered by the Distribution Licensee.

Learned counsel appearing for the WBSEDCL submits that previously, pursuant to a direction of a coordinate Bench of this Court, the matter had been referred to the concerned Grievance Redressal Officer, who,

in turn, had held that there is scope for assessment under Section 126 of the Electricity Act, 2003 in view of the unauthorized use of electricity alleged to have been perpetrated by the petitioner. Subsequently, a provisional assessment bill was raised, which is annexed at page 36 (Annexure P-9) of the writ petition. However, it is candidly submitted by the distribution licensee that thereafter no steps were taken for giving a hearing to the petitioner on the provisional assessment and/or for passing a final order of assessment.

Although it is rightly pointed out by learned counsel appearing for the WBSEDCL that the reliefs claimed in the present writ petition include a challenge to a purported final assessment, whereas no final assessment order was passed in the matter at all, it is well-settled that a Writ Court can mould the reliefs claimed in the writ petition in order to do complete justice between the parties.

It is also submitted by learned counsel appearing for the WBSEDCL that, by an intimation dated February 25, 2022, a date of hearing has been fixed on the provisional

assessment order on March 11, 2022 at 12.30 P.M. A copy of such communication, handed over by the learned counsel appearing for the WBSEDCL, be kept on record. Learned counsel appearing for the petitioner is also furnished a copy thereof.

In such view of the matter, W.P.A. No. 3168 of 2022 is disposed of by directing the petitioner to appear and be heard, along with appropriate documents, if any, before the respondent-authority on the assigned date and time fixed for hearing on the provisional assessment order, that is, March 11, 2022 at 12.30 P.M.

Upon such hearing, the respondent-authority shall decide the same and communicate the final order of assessment to the petitioner.

Such exercise shall preferably be completed by the respondent-authority within a fortnight after hearing the petitioner and all other interested parties.

It is made clear that the respective contentions of the parties, on merits, in respect of the veracity of the provisional assessment have not been gone into by this Court. It will be open to the parties to argue

the same before the respondent-authority at the time of hearing.

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 of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)