

AD. 42.
April 26, 2022.
MNS.

WPA No. 5236 of 2022

Yousuf Ali Biswas
Vs.
CESC Limited and others

Mr. Mukteswar Maity,
Ms. Manika Sarkar
...for the petitioner.

Dr. Madhusudan Saha Roy
...for the CESC Limited.

Affidavit-of-service filed in Court today be kept
on record.

The grievance of the petitioner is that the petitioner, being aggrieved by a final order of assessment under Section 127 of the Electricity Act, 2003 (2003 Act), preferred an appeal. However, in view of the scarcity of resources, the petitioner seeks a reconnection of the electric supply to the petitioner's premises at the defaulting meter, upon payment of 50% of the total amount of final assessment.

Learned counsel appearing for the CESC Limited strongly opposes such prayer and contends that the writ petition should be dismissed with exemplary costs. It is submitted that the petitioner is resorting to gross abuse of the process of court. After a long initial delay, the petitioner had moved a writ petition, bearing WPA 16200 of 2021, against the

preliminary assessment, which was decided on December 14, 2021 by dismissing the said writ petition as withdrawn on the prayer of the petitioner, with liberty to the petitioner to prefer a challenge before the appropriate authority against the impugned decision of final assessment. However, such liberty came with a rider that such challenge would be subject to the law of limitation and had to be taken in accordance with law.

Deliberately, in order to further delay the matter, the petitioner preferred an appeal before a wrong forum and has not deposited the entire amount of 50% as statutorily required under Section 127 of the 2003 Act, it is submitted.

Upon perusal of the records, it is evident that the petitioner has been repeatedly trying to stall the payment of the amount of final assessment by resorting to frivolous writ petitions.

The previous writ petition was withdrawn on the prayer of the petitioner, with adequate liberty to the petitioner to challenge the final order of assessment, subject to the law of limitation and in accordance with law. Such dismissal took place on December 14, 2021. Thereafter, the petitioner took recourse of filing an appeal, but without depositing the entire 50% of the final assessment, as per the statutory requirement. Although the petitioner has contended that restoration of electric connection may

be given to the petitioner upon payment of 50% of the preliminary assessed amount, such a course of action is patently *de hors* the law.

Section 126 of the 2003 Act gives an opportunity to the consumer to deposit the entire amount, as assessed in preliminary form, for getting restoration of electric connection.

However, such chapter is over in the present case upon final assessment. Thereafter, upon liberty granted by this Court, the writ petitioner had preferred an appeal against the final order of assessment, but without depositing the 50%, as statutorily required, of the amount finally assessed.

As such, the prayer for restoration of electric connection upon depositing of 50% of the preliminary assessment, which is already merged with the final assessment, is not tenable in law.

Hence, the writ petition, that is, WPA 5236 of 2022 is dismissed without any order as to costs.

However, the petitioner is warned that further future efforts to thwart the process of law by way of filing frivolous writ petitions is strongly deprecated and in the event the petitioner takes recourse to such dilatory tactics, it will be open to the court to impose adequate penalty on the petitioner by way of 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.)