

09 and 10
10.05.2022.
mb

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 5988 of 2022
with
W.P.A. No. 7279 of 2022

Sanatan Rajmalla
-vs.-
The West Bengal State Electricity
Distribution Company Limited & Ors.

Md. Rafiqul Islam
...for the petitioner

Mr. Debjit Mukherjee
...for the WBSEDCL

A preliminary objection is taken by learned counsel appearing for the WBSEDCL inasmuch as the scopes of challenge of both W.P.A. No. 5988 of 2022 and W.P.A. No. 6279 of 2022 are similar. It is submitted that the pendency of the first writ petition has not been disclosed in the second, which makes the writ petitioner guilty of coming to the writ court with unclean hands. As such, the writ petitions ought to be dismissed, it is contended.

Learned counsel appearing for the petitioner submits that the first writ petition challenges the purported outstanding amount of Rs.5230/-, as per the bill dated March 22, 2022, whereas the final order of assessment dated March 21, 2022 has been challenged

in the second writ petition. As such, it is contended that the scopes of two writ petitions are different.

In any event, the writ petitioner challenges the entire bill annexed as annexure P-15 to the writ petition, that is, W.P.A. No. 5988 of 2022 insofar as the claim of Rs.1,68,180/- has been made from the petitioner, incorporating an alleged outstanding due of Rs.5230/- for three months as well.

Considering the submissions of learned counsel for the parties, although the gamut of challenges in both the writ petitions is the same, there is a subtle difference, insofar as the first writ petition challenges the outstanding dues of Rs.5230/- in terms of the final order of assessment to the tune of Rs.1,68,180/-, although the language in which the prayer of the two have been couched is unhappy inasmuch as the distinction between the two writ petitions having not been disclosed clearly.

Be that as it may, since both the writ petitions are taken up together for hearing, there should not be any technical impediment for the writ court taking up the entire dispute for consideration.

However, since there is a clear provision of appeal before an appellate authority under Section 127 of the Electricity Act, 2003, it would not be prudent to entertain the writ petitions, incorporating a challenge to the final order of assessment and/or dues.

As such, W.P.A. No. 5988 of 2022, along with W.P.A. 7279 of 2022, are disposed of by granting the petitioner liberty to approach the appellate authority with a challenge against the final order of assessment made by the WBSEDCL against the petitioner, as contended in the writ petitions; upon which, the said authority shall, upon compliance of all formalities in consonance with law, including the deposit of fifty percent of the due amount by the petitioner, decide the dispute in accordance with law, subject to any limitation that may be applicable, as expeditiously as possible, preferably within six weeks from the date of filing of such appeal.

It is made clear that it will be open to the appellate authority to consider as to whether there is any scope for taking a lenient view regarding the delay in preferring the appeal by the petitioner in view of pendency of the writ petitions till now.

However, the merits of the respective contentions of the parties have not been gone into by this Court.

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.)