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23.03.2022
TN

WPA No.5417 of 2014
IA No: CAN 1 of 2017
(Old No: CAN 7006 of 2017)

Abdul Kalam @ Sk. Abul Kalam @
Sk. Abdul Kalam
Vs.
The West Bengal State Electricity Distribution
Company Limited and others

Mr. Saptarshi Chakraborty,
Ms. Poulami Dutta

.... for the petitioner

Mr. S.S. Koley

.... for the WBSEDCL

Mr. Sumit Ray

.... for the WBSETCL

At the outset, a preliminary objection is taken by the respondent-authorities on the score that, despite pendency of an independent appeal under Section 127 of the Electricity Act, 2003 (hereinafter referred to as “the said Act”), the petitioner has challenged in the writ petition a final assessment under Section 126 of the said Act. It is contended by the respondents that the final assessment is an appealable one and, in view of the pendency of the

pre-existing appeal, the writ petition is frivolous and not maintainable.

At this juncture, an adjournment is prayed on behalf of the petitioner.

It is noticed from the records that the writ petition had been dismissed for default previously on June 14, 2019 and was restored subsequently on February 24, 2022. However, having the matter conveniently restored, the petitioner has been praying for adjournments on repeated occasions.

On March 15, 2022, a joint prayer was made by learned counsel for the parties to adjourn the matter, upon which the same was adjourned till March 22, 2022.

However, on March 22, 2022, when the matter was called on for hearing, an adjournment was again sought on behalf of the petitioner.

This is the third successive occasion after restoration of the writ petition, on which the petitioner has been claiming adjournment.

It is evident from the materials on record that the contention of the respondents is substantially correct. The writ petition is a mere ploy to procrastinate the matter and has been filed with the *mala fide* intention to abuse the process of the court, despite having preferred an appeal before the

appropriate forum against the final order of assessment, which is still pending.

Hence, WPA No.5417 of 2014, being vexatious and sham, is dismissed without any order as to costs.

In view of the dismissal of the writ petition, as above, IA No: CAN 1 of 2017 (Old No: CAN 7006 of 2017) is also disposed of accordingly.

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.)