

AD. 16.
May 19, 2022.
MNS.

WPA No. 7291 of 2022

Sunita Jaiswal
Vs.
CESC Limited and another

Mr. Bidyut Kumar Halder,
Mr. Indranit Halder

...for the petitioner.

Mr. Rajiv Lal,
Ms. Sumouli Sarkar

...for the CESC Limited.

Learned counsel for the petitioner contends that, in view of the ratio laid down in *Rama Shankar Pandey Vs. CESC Limited*, passed by a Co-ordinate Bench and reported in *2017 SCC OnLine Cal 9644* and the unreported judgement rendered by another co-ordinate Bench on January 31, 2018 in *WP 1927(W) of 2018 (Samir Das Vs. CESC Limited and another)*, a tenant is entitled to independent electricity connection in his own name. As such, the ground of refusal by the CESC Limited in the case of the present petitioner to give new electricity connection is not tenable in the eye of law.

Learned counsel appearing for the CESC Limited submits that both the judgements cited by learned counsel for the petitioner were considered by a third Single Judge in *WPA 13504 of 2021 (Chandrakala Nayak)* dated December 8, 2021,

wherein, upon consideration of two subsequent Division Bench judgments, it was observed that the right even of a tenant to get electricity supply in his own name is subject to Regulation 14 of the West Bengal Electricity Regulatory Commission (Recovery of Expenditure for Providing New Connection) Regulations, 2013 (2013 Regulation).

Learned counsel further submits that Clause 6.0 of Regulation 56 of 2013 Regulation clearly provides a limitation period of 90 days for filing the grievance even before the Grievance Redressal Officer (GRO).

Hence, since the writ petition itself was filed after 90 days of the cause of action, the remedy sought by the petitioner is intended to get indirectly what the petitioner cannot get directly under the relevant statute.

Learned counsel for the petitioner, in reply, reiterates that the petitioner-tenant is without electricity and the remedy of the petitioner should not be shut out altogether.

Upon considering the rival submissions of learned counsel for the parties, it is evident that the proposition as regards the tenant's entitlement to get a new electricity connection is no longer *res integra*, as is the proposition that such a right is subject to the Regulations framed by the West Bengal Electricity

Regulatory Commission (WBERC) under the aegis of the Electricity Act, 2003 (2003 Act).

Since the CESC Limited took specific objections on both scores – first, the apprehended splitting of load and secondly, the imminent danger and risk if a second connection is given at the premises and, keeping in view the fact that the writ petition itself was filed beyond 90 days from the cause of action, it would not be appropriate to grant the remedy sought by the petitioner under Article 226 of the Constitution of India. Even referring the matter to the GRO after the expiry of the limitation period would be in contravention of the extant Regulations.

However, in the event the petitioner has an independent right of getting electricity connection from the landlord/owner of the premises, it will be open to the petitioner to approach the appropriate forum for getting such relief.

With the aforesaid observations, WPA No. 7291 of 2022 is dismissed.

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.)