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WPA No.10167 of 2021

Kashem Ali
Vs.
West Bengal State Electricity Distribution
Company Limited and others

(Via Video Conference)

Mr. Subir Banerjee

.... for the petitioner

Mr. Srijan Nayak,
Ms. Rituparna Maitra

.... for the WBSEDCL

The petitioner has challenged a final order of assessment passed by the Distribution Company under Section 127 of the Electricity Act. Learned counsel for the petitioner submits that several employees are working under the petitioner in respect of the premises, to which electric connection has been severed. Apart from a commercial connection, a domestic connection was also disconnected by the Distribution Company on the allegation of theft.

It is submitted that the petitioner applied against the order of final assessment before the Distribution Company on January 27, 2021 (as annexed at page – 36 of the writ petition) within the

statutory period for preferring an appeal against the final order of assessment. However, since the application was not in proper form of an appeal, the Distribution Company refused to entertain the same. Being thus aggrieved, the petitioner has preferred the instant writ petition with an additional prayer to be permitted to deposit the arrear dues in adequate instalments, subject to the electric connection being restored upon immediate payment of fifty per cent of the dues.

However, learned counsel for the Distribution Company rightly points out that, under Section 127 of the Electricity Act, there is an appellate authority which has to be approached challenging a final assessment order. Under the extant Regulations, there is a specific time-limit for preferring such appeal, which is long over by now.

There is justification in the contention of the Distribution Company inasmuch as the petitioner cannot achieve indirectly, what he cannot get directly. Since the period of limitation for preferring an appeal against the final order of assessment has already elapsed and there is no provision for condonation of delay in preferring an appeal under the law, such a right cannot be created by the writ court. In any event, the law is very clear in that, if fifty per cent of

the dues are deposited, the same entitles the consumer merely to prefer an appeal and not to get restoration of connection. For getting restoration of electric supply, the consumer has to deposit the entire amount of arrears as contemplated in Section 126 of the Electricity Act. The present case not being such, there is no scope for interference at this stage with the final order of assessment.

Accordingly, WPA No.10167 of 2021 is dismissed. However, it is made clear that, in the event the petitioner seeks a new electric connection at the same meter position, it will be open to the petitioner to apply for the same. If so made, such application will be considered by the Distribution Company independently on its own merits and if the petitioner is otherwise found entitled, a fresh connection shall be given to the petitioner subject to clearance of all the arrear amounts, reconnection charges and compliance of all other due formalities for getting such new connection from the petitioner's end.

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.)