

AD. 22.
June 7, 2022.
MNS.

WPA No. 8916 of 2022

Jyotish Chandra Rice Mill and another
Vs.
The West Bengal State Electricity Distribution
Company Limited and others

Mr. Sayan Chattopadhyay

...for the petitioners.

Mr. Sujit Sankar Koley

...for the WBSEDCL.

Mr. Malay Singh,
Ms. Neelam Singh

...for the State.

The grievance of the petitioners is that, despite the Ombudsman having observed that the alleged rectification of polarity in respect of electricity meter of the petitioner no.1-Rice Mill could not be established and that the Ombudsman was not satisfied on that score, the Ombudsman affirmed the order of the Grievance Redressal Officer (GRO) to the effect that the bills from July, 2019 to November, 2019, that is, the disputed period, were to be regenerated on the basis of average consumption of the meter on and from November 30, 2019 at one-year pattern, that is, for a subsequent period.

It is contended, by placing reliance on the observations of the Ombudsman, that the Ombudsman clearly recorded its dissatisfaction on

the question of alleged rectification of the defect on November 29, 2019 which was the basis of the Ombudsman's order for average billing. In the absence of any satisfaction being recorded by the Ombudsman on such score, it was *de hors* the jurisdiction of the Ombudsman to affirm the GRO's direction of regeneration of bills.

Learned counsel appearing for the West Bengal State Electricity Distribution Company Limited (WBSEDCL) submits that, since the Ombudsman had held in favour of the WBSEDCL by affirming the order of the GRO in respect of the regeneration of bills, there was no scope for the WBSEDCL to challenge the order of the Ombudsman. However, the WBSEDCL is also aggrieved by the finding of the Ombudsman that the WBSEDCL could not satisfy the Ombudsman regarding rectification of the alleged defect on November 29, 2019. It is submitted on behalf of the WBSEDCL that there are several documents, from which it is evident that the polarity of the PT, that is, Potential Transformer was reversed after the replacement on July 12, 2019 and, as such, submits that, at the worst, the matter ought to be remanded back to the Ombudsman for consideration afresh on the rectification on November 29, 2019.

Upon a scrutiny of the Ombudsman's order, it is clearly found that, upon considering all documents produced by both the parties, including relevant documents in respect of reversal of polarity as alleged by the WBSEDCL, the Ombudsman returned a clear finding that it was not satisfied, upon considering all the papers, about the rectification of the said defect on November 29, 2019.

The plinth of the cause of the WBSEDCL for seeking regeneration of bills on the basis of average consumption was the alleged rectification of a purported defect on November 29, 2019. Since the Ombudsman itself was not satisfied regarding any such defect or rectification, the basic premise of the average billing goes and could not be substantiated by the WBSEDCL.

In such circumstances, the impugned order of the Ombudsman suffers from patent perversity inasmuch as the conclusion is contrary to the findings rendered by the Ombudsman in the said order.

Contrary to the submissions of the WBSEDCL, there is no scope for further remand of the matter to wrangle the parties in litigation indefinitely, more so, since the Ombudsman, upon full-fledged consideration of the relevant documents, clearly arrived at the specific finding

that it was not satisfied about the rectification of the defect, as alleged, on November 29, 2019. In the absence of such justification for average billing, the direction of the Ombudsman and the GRO to regenerate bills, that too on the basis of average consumption of the meter for a subsequent period is squarely vitiated and is hereby set aside.

Accordingly, WPA No. 8916 of 2022 is allowed, thereby setting aside the impugned order dated April 26, 2022 passed by the Ombudsman (Annexure P-19 at pages 123 to 127 of the writ petition) and the order of the GRO, which is hereby affirmed.

The petitioners shall be at liberty to seek an adjustment of the sum deposited by way of partial compliance of the regenerated bills, pursuant to the order of this Court, with future bills of the petitioners in respect of current electricity charges. In the event such an approach is made by the petitioners to the WBSEDCL, the WBSEDCL shall immediately disburse such amount to the petitioners or adjust the same with future electricity bills of the petitioner no. 1-Rice Mill.

The petitioners will also be at liberty to raise any subsequent billing dispute, if perpetrated in the notion of the petitioners, before the GRO. If such a reference is made, the GRO shall decide the issue

in accordance with law upon giving an opportunity of hearing to both sides.

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.)