

AD. 6.
June 13, 2022.
MNS.

WPA No. 9349 of 2022

Sri Gorachand Kundu
Vs.
The State of West Bengal and others

Mr. Tapas Kumar Dey,
Mr. Ashis Kumar Dutta,
Mr. Rakesh Roy

...for the petitioner.

Mr. Srijan Nayak,
Mrs. Rituparna Maitra

...for the WBSEDCL.

Learned counsel for the petitioner submits that the petitioner's electricity meter had been stolen, for which the petitioner had lodged a complaint as long back as in the year 2011. Subsequently, due to the inaction on the part of the West Bengal State Electricity Distribution Company Limited (WBSEDCL), the petitioner approached the Consumer Disputes Redressal Forum, Hooghly, and obtained an order of restoration of electricity connection, subject to compliance of all legal formalities.

Even thereafter, it is contended, the WBSEDCL sat tight over the matter for which the petitioner moved before the Ombudsman who, vide order dated February 18, 2020, directed the Distribution Licensee to follow the order of the District Consumer Redressal Forum, Hooghly. However, in

the meantime, in 2019, an allegation of theft had been levelled against the petitioner and a complaint was lodged accordingly within the contemplation of Section 135 of the Electricity Act, 2003 (2003 Act), pursuant to which the petitioner was arrested and was in custody for a limited period, after which the petitioner was enlarged on bail.

The petitioner, it is contended, intends to challenge the final order of assessment passed in the meantime, which is to the tune of Rs.4,00,000/-, which is an exorbitant amount in the assessment of the petitioner.

In the meantime, within the contemplation of Section 135 of the Electricity Act, 2003 (2003 Act), the petitioner had been permitted by the Judge, Electricity Act, Hooghly, to deposit 25% of the final assessment bill to the electricity department.

It is submitted that, accordingly, upon deposit of a portion of the amount of final assessment bill, the electricity connection of the petitioner may be restored.

Learned counsel for the Distribution Licensee controverts the allegation of the petitioner and submits that the petitioner is not entitled to get a restoration of electricity connection unless the petitioner deposits the full amount of final assessment.

It is seen from the materials on record that an independent allegation of theft has been lodged against the petitioner as long back as in the year 2019 on the basis of which a criminal proceeding is still pending and the petitioner is out on bail.

The order dated January 3, 2022 passed in Electricity Case No. 294 of 2019 by the Judge, Electricity Act, Hooghly, directing the deposit of 25% of final assessment bill, has no nexus with restoration of electricity connection of the petitioner but was directed within the contemplation of Section 135 of the 2003 Act.

Insofar as the allegation of theft is concerned, the same is still subsisting against the petitioner.

Although it is unfortunate that the petitioner's complaint of 2011 as regards theft of the electricity meter of the petitioner went unaddressed by the WBSEDCL for a considerable period, as of today, the Ombudsman has directed the order of the Consumer Disputes Redressal Forum to be implemented. Unfortunately, the said direction was given only on February 18, 2020, that is, subsequent to the allegation of theft having been levelled against the petitioner in 2019.

Hence, the direction of the Ombudsman, in conjunction with the order of the Consumer Disputes Redressal Forum at Hooghly, mandates the petitioner to comply with all legal formalities for the

purpose of getting restoration of his electricity connection.

Sections 126 and 127 of the 2003 Act envisage that, in order to get a restoration of electricity connection, the petitioner/consumer has to deposit the entire amount assessed, unless a challenge is preferred against the same.

Under Section 127 of the 2003 Act, upon deposit of 50% of the assessed amount, the lesser right of merely preferring an appeal against the final order of assessment is conferred.

Thus, any direction for restoration of electricity connection of the petitioner without payment of the entire amount would tantamount to overriding the existing law on the subject and granting relief greater than that statutorily provided to the petitioner.

In such view of the matter, there is no scope of directing restoration of connection to the petitioner without the petitioner clearing off the entire amount due at the present moment.

Hence, WPA 9349 of 2022 is dismissed on contest.

However, it is made clear that the refusal to grant restoration of electricity connection to the petitioner, as incorporated in this order, shall be subject to the outcome of the challenge, if any, preferred by the petitioner against the final order of assessment under Section 127 of the 2003 Act.

If such a challenge is preferred, the same shall be considered independently by the appellate forum in accordance with law and subject to the law of limitation without being influenced in any manner by any of the observations made herein or by the criminal 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 with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)