

AD-35
Ct No.09
21.09.2022
TN

WPA No. 9747 of 2022

Shrayasee Saha
Vs.
CESC Limited and another

Mr. Bidyut Kr. Halder,
Mr. Indranil Halder

.... for the petitioner

Dr. Madhusudan Saha Roy

.... for the CESC Limited

Learned counsel for the petitioner contends that the petitioner's name was transferred in place and stead of her deceased grandfather, one Gyan Chandra Saha.

Late Gyan Chandra Saha was the original consumer in respect of the domestic connection-in-question. However, subsequently the said connection was severed by the CESC Limited and the CESC Limited sought payment of an alleged amount on the basis of a final order of assessment on the charge of pilferage.

It is submitted that if the CESC Limited was of the opinion that without the payment of the outstanding amount due in connection with the petitioner's father's industrial meter, which has also since been disconnected, the CESC Limited would not

have allowed such transfer in the name of the petitioner at all. *Post facto*, after granting such transfer, the CESC Ltd. acted beyond jurisdiction in severing the connection and the same ought to be restored, upon the petitioner paying the amount which has been assessed with regard to the allegation of pilferage, as annexed at page-21 of the affidavit-in-opposition, on behalf of the CESC Limited, vide Final Order of Assessment dated June 07, 2022.

Learned counsel for the CESC Limited submits that the petitioner, upon false declaration that she is the only heir of her grandfather, despite her father being still alive, applied for transfer. It is disputed by learned counsel for the CESC Limited that transfer was ever effected in favour of the petitioner. Although an amount was initially deposited by the petitioner with her online application, no such transfer was actually given to the petitioner, it is contended.

Learned counsel further submits that previously the industrial connection standing in the name of the petitioner's father was disconnected, on which the dues are still substantial. A portion of the dues were deposited by the petitioner's father with regard to the said industrial connection, in the context of a criminal revision. However, half of the said amount is still due. Hence, since the CESC Limited clearly discovered a

nexus between the petitioner and her father inasmuch as the domestic connection-in-question was catering to the needs of the industrial connection even after disconnection of the latter, it is submitted that unless the petitioner deposits the entire outstanding amounts remaining in respect of the petitioner's father's industrial meter as well as the amount assessed as final dues for the current pilferage/unauthorized dues with regard to the domestic meter, the latter connection cannot be restored.

Upon considering the submissions of the parties, it transpires from the materials on record that the disconnection with regard to the industrial connection of the petitioner's father still stands. Although a portion of the dues with regard to the outstanding amount in respect of the said meter has partially been deposited by the petitioner, such deposit was under compulsion and not out of charity, since the same was deposited in connection with the criminal revisional case arising out of the said pilferage with regard to the industrial meter.

That apart, the CESC Limited has alleged, on inspection, a nexus between the petitioner and her father, who was the defaulting consumer in respect of the industrial connection, on the basis of the allegation that supply was being given from the

domestic connection-in-question to the said industrial meter. Despite the petitioner having disputed such contention of the CESC Limited, it cannot be held, *per se*, that merely because one connection is an industrial one and the other domestic, the domestic connection cannot cater to the needs of the industrial meter. Industries come in various shades and types and it may very well be that a small industrial connection is run with power equivalent to that of a comparatively heavy domestic connection. In any event this court, in its writ jurisdiction, cannot prejudge the issue of the alleged unauthorized use of the domestic connection for the purpose of catering to the needs of the disconnected industrial meter.

That apart, a previous writ petition was preferred by the petitioner's father against the final order of assessment of the industrial connection, which had been ultimately withdrawn and dismissed as such without any leave to sue afresh. Hence, it is beyond the scope of this writ petition to grant liberty to the petitioner to challenge such order at this belated juncture.

Inasmuch as the dues are concerned, in view of a *prima facie* case of nexus having been made out by the CESC Limited, it is well within the domain of the CESC Limited to claim clearance of the entire

outstanding due amount with regard to both the industrial connection and the unauthorized use of the present domestic connection prior to restoring the electricity supply to the domestic meter.

Hence, the writ petition does not merit intervention.

Accordingly, WPA No. 9747 of 2022 is dismissed without any 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.)