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27.06.2022.
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 11041 of 2022

Sahabul Sekh

-vs.-

The State of West Bengal & Ors.

Mr. Rajnil Mukherjee,
Ms. Debalina Sarkar
...for the petitioners

Mr. Debjit Mukherjee
...for the WBSEDCL

Mr. Debjit Mukherjee,
Ms. Susmita Chatterjee
...for the State

Learned counsel appearing for the petitioner contends that the petitioner is an agriculturist and, despite his strained financial condition, deposited fifty per cent of the amount assessed finally within the purview of Section 126 of the Electricity Act, 2003. Learned counsel further contends that the petitioner disputes and denies the allegation of pilferage levelled against the petitioner, which was the basis of such assessment.

Learned counsel appearing for the WBSEDCL as well as the State of West Bengal submits that the writ petition itself has been filed subsequent to lapse of the limitation period for preferring an appeal against the final assessment order which was passed on January 04, 2022.

Since the statute provides a specific period for preferring an appeal, it is submitted that the writ court ought not to interfere in the writ petition.

Upon considering the provisions of Sections 126 and 127 of the Electricity Act, 2003, it is explicit that the statute provides for a right to prefer an appeal within a specific period, subject to deposit of fifty per cent of the finally assessed amount.

Since the petitioner claims to have deposited fifty per cent of the assessed amount, the petitioner ought to have an opportunity to prefer an appeal against the final order of assessment.

However, there cannot be any direction for reconnection of electricity without payment of the entire amount finally assessed by the Distribution Licensee, as contemplated within the purview of Section 126 of the Electricity Act, 2003.

Be that as it may, considering the vocation of the petitioner, the benefit of doubt is given to the petitioner insofar as the petitioner might have had no knowledge in respect of limitation period in preferring an appeal.

Hence, W.P.A. No. 11041 of 2022 is disposed of by granting liberty to the petitioner to prefer an appeal against the order of final assessment, if otherwise maintainable in law.

If so preferred, the appellate authority shall consider such appeal sympathetically keeping in view the

occupation of the petitioner insofar as the condonation of delay, if any, is concerned and decide the appeal in accordance with law upon giving adequate opportunity of hearing to all concerned, including the petitioner, as expeditiously as possible, preferably within one month from the appeal being preferred.

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 of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)