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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

W.P.A. No. 13117 of 2021

(Via Video Conference)

Ananda Manna

-vs.-

The West Bengal State Electricity
Distribution Company Limited & Ors.

Mr. Khairul Alam,
Ms. S. Afreen

...for the petitioner

Mr. Mihir Kundu

...for the WBSEDCL

The grievance of the petitioner is that the Ombudsman, by the impugned interim order, directed a joint inspection to be held on the premise that the writ petitioner has conceded to the electric connection of the private respondent being taken over the land of the petitioner. However, learned counsel for the petitioner specifically contends that no such consent was given by the petitioner at any point of time, for the electric connection of the private respondent being given by the distribution licensee over the land of the petitioner. That apart, the documents, which were purportedly sought to be produced by the private respondents, were never actually produced before the Ombudsman to

indicate that the private respondent was a *bona fide* consumer of the licensee.

Despite service, none appears for the Ombudsman, the BL & LRO and the private respondent.

The learned Advocate for the distribution licensee submits, in all fairness, that the matter may be remitted back to the Ombudsman. However, since the Ombudsman has already disposed of the main matter in the meantime, it is submitted by learned counsel for the distribution licensee that such final order has to be set aside for the Ombudsman to hear the matter afresh.

It appears from the records that the private respondent specifically pleaded that the private respondent had sufficient documents like electricity bill, meter card etc. to show that the private respondent was a consumer of the distribution licensee. However, it is not reflected in the impugned order of the Ombudsman that any such document was actually produced on behalf of the private respondent to substantiate that the private respondent is a *bona fide* consumer.

Moreover, there does not appear to be any specific adjudication on, or consideration of, the question of the petitioner purportedly giving a no-objection to the connection being taken over the petitioner's land.

Since a final order has been passed on September 16, 202 (as annexed to the supplementary affidavit)

subsequent to the filing of the writ petition, on the basis of the presumption that the private respondent is entitled to get an electric connection, such final order has to be set aside. It may further be recorded that any document of possession or entitlement of the private respondent in respect of the electric connection has been produced either before the BL & LRO or any other authority.

In such view of the matter, W.P.A. No. 13117 of 2021 is disposed of by remitting the matter back to the Ombudsman, that is, the respondent no. 2 herein, to decide afresh the question as to whether the private respondent herein is at all entitled to get electric connection over the premises of the writ petitioner and also to decide the question on the basis of the available materials on record and other document, which may be furnished by the party, as to whether any consent was actually given by the petitioner to such electric connection being given to the private respondent at any point of time. The final order passed subsequently by the Ombudsman in the proceeding dated September 16, 2021 is also set aside. The Ombudsman shall endeavour to decide the matter afresh within two months from the date of communication of this order to the Ombudsman in accordance with law and without being prejudiced in any manner by any of the observations made herein.

The merits of the respective contentions of the parties have not been gone into by this Court.

The petitioner shall forward a server copy of this order to the Ombudsman, along with a cover letter by the learned Advocate for the petitioner, as expeditiously as possible in order to enable the Ombudsman to comply with this order.

The electric connection, if any, already given in the meantime to the private respondents shall continue, subject to the private respondent paying all the current bills in the meantime, however, subject also to the final decision of the Ombudsman in the matter.

It will be open to the Ombudsman, upon conclusion of the proceeding, to pass appropriate direction in respect of such electric connection, given in the meantime to the private respondent.

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.)