

AD. 16.
July 6, 2022.
MNS.

WPA No. 12976 of 2022

Amitava Kundu Chowdhury
Vs.
CESC Limited and others

Mr. Bidyut Halder,
Mr. Indranil Halder

...for the petitioner.

Mr. Debanjan Mukherjee

...for the CESC Limited.

Learned counsel for the petitioner contends that after being referred to the concerned Grievance Redressal Officer (GRO), the petitioner approached the GRO with the complaint that the CESC Limited was not giving independent electricity connection to the petitioner, who is residing on a different floor than his father at the premises-in-question, of which the father is the owner.

It is further submitted that the petitioner's father is obstructing the petitioner from getting regular electricity supply from the father's meter and is seeking to extract exorbitant amounts of money for the purpose of permitting the petitioner to use such connection, which stands in the name of the father.

Learned counsel for the petitioner further contends that the petitioner, being in settled occupation of the premises, is entitled under Section 43 of the Electricity Act, 2003 (2003 Act) and Article

21 of the Constitution of India to get independent electricity connection in his own name at the premises.

However, both the GRO and Ombudsman turned down such relief to the petitioner by observing that the petitioner has failed to produce anything to show the petitioner's separate possession in the premises.

Learned counsel appearing for the CESC Limited submits that the CESC Limited took a specific objection with regard to the apprehended splitting of load since there has not been any specific demarcation or partition by metes and bounds and/or separate mutation in respect of the property, insofar as the petitioner's portion of occupation and that of his father are concerned.

As such, by the order of a co-ordinate Bench, the matter was referred to the GRO upon which both the GRO and the Ombudsman have returned the finding that the petitioner failed to show anything for the purpose of proving that he is in possession of a separate portion of the premises.

It is further submitted that since the petitioner is enjoying electricity from his father's connection, there is no scope of giving separate electricity connection to the petitioner at the same premises.

Upon hearing learned counsel for the parties, it appears that the petitioner is, at best, a licensee

under his father in respect of the premises-in-question and does not have any independent right, *de hors* that of his father, to possess the premises. Although a noteworthy argument has been advanced by learned counsel for the petitioner to that effect that the petitioner, being in settled occupation, is entitled to electricity connection irrespective of the lawfulness or otherwise of his occupation, such contention cannot be accepted in the present case, in view of a specific objection regarding apprehended splitting of load having been taken by the CESC Limited and the same having been affirmed both by the GRO and the Ombudsman, who have found that the petitioner has failed to show anything to prove his separate possession in the said premises and that the petitioner is already using electricity supply from his father's meter. Whatever may be the mutual misunderstanding between the petitioner and his father, the same is the subject matter of a private civil dispute between them. However, since both the forums, as stipulated in law, have found and returned findings against the petitioner on such score, there is no reason to set aside such findings of affirmance for any reason whatsoever.

It may be noted that the right conferred on a consumer under Section 43 of the 2003 Act is circumscribed by the Regulations framed by the West Bengal Electricity Regulatory Commission (WBERC),

which have been formulated under the purview of the 2003 Act itself, which statute also confers such right under Section 43 of the 2003 Act.

Taking a comprehensive view of the matter, as such, there is no scope of interfering with the findings of the Ombudsman and/or the GRO in the present case.

Accordingly, WPA 12976 of 2022 is disposed of on contest 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.)