

S/L. 12.
July 15, 2022.
MNS.

WPA No. 14377 of 2022

Tuhin Mondal @ Kamanur Jaman
Vs.
The State of West Bengal and others

Md. Younus Mondal

... for the petitioner.

Mr. Anand Farmania

...for the State.

Mr. Srijan Nayak,
Mrs. Rituparna Maitra

...for the WBSEDCL.

Learned counsel for the petitioner contends that the petitioner, having financial constraints, may be permitted to deposit 1/3rd of the amount raised by way of final assessment by the West Bengal State Electricity Distribution Company Limited (WBSEDCL) for the purpose of getting restoration of electricity connection, which has been disconnected on the allegation of pilferage.

Learned counsel appearing for the State files a police report, which is kept on record.

The said police report indicates the present status of the criminal case of pilferage

initiated under Section 135(1)(a) of the Electricity Act, 2003 (2003 Act) against the present petitioner.

Learned counsel for the WBSEDCL places reliance on the provisions of Sections 126 and 127 of the 2003 Act for controverting the contentions raised by the petitioner.

Section 126 specifically stipulates that the consumer has to deposit the entire amount assessed by way of provisional assessment for the purpose of getting restoration of electricity supply. Section 127, on the other hand, provides an opportunity to the consumer to prefer an appeal against the final order of assessment. However, the condition precedent of preferring such an appeal is deposit of 50% of the amount assessed finally.

Hence, a right greater than a right, which has been conferred by the Statute, ought not to be conferred by the Court by giving direction of restoration of electricity upon payment of merely 1/3rd of the assessed amount, whereas the Statute envisages the mere right to prefer an appeal upon deposit of 50% of such amount and restoration upon deposit of the entire assessed amount.

Thus, there is no scope of interference in the instant writ petition.

Accordingly, WPA No. 14377 of 2022 is dismissed.

However, nothing in this order shall prevent the petitioner from challenging the final order of assessment before the appropriate appellate authority, subject to the law of limitation and in accordance with law, if the petitioner so chooses.

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.)