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07.01.2022
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WPA No.15116 of 2021

Aktar Alam @ Aktar Sk

Vs.

The West Bengal State Electricity Distribution
Company Limited and others

(Via Video Conference)

Mr. Animesh Mukherjee

.... for the petitioner

Mr. Srijan Nayak,
Ms. Rituparna Maitra

.... for the WBSEDCL

Mr. Bipin Ghosh

.... for the State

Affidavit-in-opposition filed in court today be
kept on record.

Although no affidavit-in-reply has been filed
thereto, it appears from the tenor of the contentions
that such factual enquiry may not be necessary in the
present case by the writ court.

The present challenge has been preferred
against an order passed under Section 126 of the
Electricity Act, 2003, making final assessment of the

alleged dues from the petitioner in respect of an electricity meter of the petitioner.

Learned counsel for the petitioner argues that the allegation of theft has been levelled *mala fide* in order to avoid the previous liability of the Distribution Company to pay certain amounts as per a direction of the Ombudsman. It is further argued that the complaint lodged and the seizure list, on the basis of which the FIR was registered, was made by the personnel of the Distribution Company and no independent witness was present. It is argued that such infirmities vitiate the complaint as to theft. However, as of today, the FIR exists on record and the veracity of the same has not yet been challenged before any competent court having criminal jurisdiction. In any event, it would be beyond the charter of the court to enter into the factual allegations and counter-allegations between the parties within the limited periphery of a writ petition.

Since no affidavit-in-reply is called upon by the court, it is deemed that the petitioner has not admitted any of the allegations made in the affidavit-in-opposition filed by the Distribution Company.

Hence, WPA No.15116 of 2021 is disposed of by granting the petitioner liberty to approach before the appellate authority against the order of final

assessment challenged in the present writ petition. If such an approach is made, the appellate authority shall decide on the same upon giving adequate opportunity of hearing to the interested parties in accordance with law, as expeditiously as possible.

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.)