

M/L. 62.
August 8, 2022.
MNS.

WPA No. 14947 of 2022

Milan Kumar Bhattacharya
Vs.
The West Bengal State Electricity
Distribution Company Limited and others

Mr. Sujit Kumar Rath,
Mr. Anirban Saha

... for the petitioner.

Mr. Srijan Nayak

...for the WBSEDCL.

Affidavit-of-service filed in Court today be
kept on record.

Learned counsel for the petitioner
contends that, pursuant to an order dated June
12, 2019 passed by a co-ordinate Bench of this
Court in WP 19764(W) of 2014, the petitioner's
grievances and claim for damages for alleged
destruction and non-repair of his property due to
delay by the West Bengal State Electricity
Distribution Company Limited (WBSEDCL) in
shifting a High Tension Line from over the
petitioner's residence, were turned down by the
Ombudsman on the ground that the same was
not maintainable before such forum.

Learned counsel for the petitioner argues that in view of the direction of this Court, the Ombudsman refused to exercise jurisdiction vested in it by law in not going into the merits of the petitioner's grievances at all.

However, a perusal of the order dated June 12, 2019 of the co-ordinate Bench reveals that the same contained a direction on the Ombudsman to decide the matter strictly in accordance with the provisions of the Electricity Act, 2003 (2003 Act) and relevant Rules.

The Ombudsman has arrived at the conclusion that the claim for damages of the petitioner is not maintainable before the Ombudsman.

In fact, there is no specific provision in the 2003 Act or the Regulations made thereunder, which provides for compensation or damages being given in a case as sought to be made out by the petitioner. The remedy of the petitioner lies in tort and the petitioner is no doubt entitled to claim such relief before a competent civil Court upon adduction of proper evidence and in accordance with law.

However, there is no scope of interference with the decision of the Ombudsman

Accordingly, WPA No. 14947 of 2022 is disposed of with liberty to the petitioner to approach with his grievances/claim for compensation or damages before the competent Civil Court having jurisdiction. If so approached, the Civil Court shall decide the issues involved in accordance with law without being influenced in any manner by the refusal to interfere in the present writ petition and/or the order of the Ombudsman.

It is further clarified that this Court is of the opinion that the petitioner was in *bona fide* doubt as to the appropriate forum / remedy, within the contemplation of Section 14 of the Limitation Act, in waiting for the result of the present writ petition in view of the previous direction of the co-ordinate Bench for disposal on merits by the Ombudsman. Such aspect shall be considered by the Civil Court, if a suit is filed by the petitioner.

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.)