

AD-37
Ct No.09
10.08.2022
TN

WPA No. 14949 of 2022

Bapi Ghosh
Vs.
West Bengal State Electricity Distribution
Company Limited and others

Mr. Biswapriya Samanta
.... for the petitioner

Mr. Suijt Sankar Koley
.... for the WBSEDCL

Mr. Swapan Banerjee,
Ms. Salma Sultana Saha
.... for the State

Learned counsel for the petitioner contends that the petitioner had his connection disconnected by the West Bengal State Electricity Distribution Company Limited (WBSEDCL) on June 27, 2019. Thereafter, it is submitted, the petitioner has been using solar energy directly.

Subsequently, a final assessment bill was sent to the petitioner. Learned counsel submits that seeking such amount from the petitioner is an absurd proposition, since the petitioner has been using electricity from a solar panel since long, which does not have any nexus with the WBSEDCL.

Learned counsel appearing for the WBSEDCL controverts such allegations and submits that

although the petitioner has already cleared the dues in respect of the meter standing in the name of the petitioner's father at the premises, upon discovery of direct hooking, the final assessment bill was sent, after a provisional assessment bill, to the petitioner.

Learned counsel appearing for the State files a Police report, indicating that a charge sheet has already been filed in the criminal case pending under Section 135 of the Electricity Act, 2003 (hereinafter referred to as "the 2003 Act"). The said Police report filed today be kept on record.

Upon hearing learned counsel for the parties, although the petitioner has raised question as to absurdity of the claim on the strength of the petitioner's contention that the petitioner is using solar energy, such contention, by itself, cannot absolve the petitioner of the liability to prefer an appeal, if dissatisfied against the final assessment order, under Section 127 of the 2003 Act, upon deposit of fifty per cent of the assessed amount.

Since the question of the petitioner hooking electricity and the denial thereof are controverted questions of fact, the writ court ought not to go into an assessment of evidence to decide such dispute. It will be open to the criminal court taking up the proceeding under Section 135 of the 2003 Act as well

as the appellate authority under Section 127 of the said Act, in the event an appeal is preferred in accordance with law by the petitioner, to decide on such question.

Hence, no relief can be granted in the present writ petition.

Accordingly, WPA No. 14949 of 2022 is disposed of by granting liberty to the petitioner to prefer a challenge before the competent appellate forum against the final order of assessment impugned in the present writ petition under Section 127 of the 2003 Act.

If such a challenge is preferred, the appellate authority shall decide the same independently without being influenced in any manner by any of the observations made herein.

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.)