

S/L. 25 and 26.
July 13, 2022.
MNS.

WPA No. 15107 of 2022
Pradip Maity and others
Vs.
Calcutta Electric Supply Corporation
Limited and others
With
WPA No. 15109 of 2022
Swarnav Mitra
Vs.
Calcutta Electric Supply Corporation
Limited and others

Mr. Abhimanyu Bannerjee,
Ms. Sofia Nesar

... for the petitioners in
both the writ petitions.

Mr. Amitava Choudhuri,
Mr. Nirmalya Roy

...for the CESC Limited
in WPA No. 15107 of 2022.

Mr. Rajiv Lall

... for the CESC Limited
in WPA No. 15109 of 2022.

In re: WPA No. 15109 of 2022

Learned counsel for the petitioner contends that, despite the petitioner not having any nexus with one M/s. Mani Electronics, which operated as a different shop than that of the petitioner in the same premises and enjoyed separate electricity connection, the CESC Limited has raised an exorbitant bill against the petitioner

with regard to alleged outstanding dues payable by the said M/s. Mani Electronics.

It is contended that only upon the petitioner giving a representation to the CESC Limited, a reply was given on June 27, 2022 by the CESC Limited, which is annexed as Annexure P/6 at page 26 of the writ petition. It is disclosed therein that the outstanding dues were raised in respect of alleged non-payment of monthly consumption bills from May, 2019 to January, 2021, that too, in respect of the separate electric meter of M/s. Mani Electronics, for which the petitioner is not liable in any manner. It is further submitted that as per Clause 3.4.2 of Regulation 55 of the West Bengal Electricity Regulatory Commission (WBERC) Rules, 2013, it is clearly the onus of the Distribution Licensee to prove the nexus between the petitioner and the defaulting consumer, that is, M/s. Mani Electronics, in the event a claim for outstanding dues is made for the separate meter of M/s. Mani Electronics from the petitioner.

Learned counsel appearing for the CESC Limited submits that after M/s. Mani Electronics left the premises quite a few years back, the petitioner, who was originally the owner of the

entire premises, had been using the electricity meter of M/s. Mani Electronics, but had defaulted in payment for the relevant period, for which the allegation of nexus has been brought against the petitioner.

In reply, learned counsel for the petitioner controverts such allegations and submits that the petitioner was never the owner of the entire premises and that there was no occasion for the petitioner to have enjoyed the portion of the premises, which was occupied previously by M/s. Mani Electronics, which is also borne out from the period of default alleged, that is, May, 2019 to January, 2021.

Be that as it may, the dispute raised in the present writ petition boils down to a billing dispute as envisaged in Clause 3.5 of the same WBERC Regulation, that is, the Regulation 55 of 2013.

As per the said Regulation, the Grievance Redressal Officer (GRO) is the appropriate authority to take up the said dispute and decide the same. Moreover, since there is scope of adduction of material evidence in the form of documents and/or otherwise by the parties for the resolution of the present dispute, the writ court

would not be the appropriate forum to decide on such disputed factual aspect of the matter.

However, since the petitioner has made out a *prima facie* case to rebut the initial onus discharged by the CESC Limited by alleging nexus between the petitioner and the erstwhile defaulting consumer, it would not be appropriate if the electricity connection of the petitioner's meter is disconnected prior to the dispute being decided by the GRO.

Accordingly, WPA No. 15109 of 2022 is disposed of by directing the petitioner to refer the dispute-in-question to the concerned GRO within a week from date.

If so referred, the concerned GRO shall decide the same in accordance with law upon giving adequate opportunity of hearing to the petitioner as well as the CESC Limited as expeditiously as possible, preferably within six weeks from the date of such reference.

The CESC Limited shall not disconnect the electricity connection of the petitioner in the meantime, before such decision is taken by the GRO, for non-payment of the alleged outstanding dues as raised in the disputed bill.

However, it is made clear that the petitioner shall go on paying the current electricity charges in respect of his independent electricity meter at all points of time.

There will be no order as to costs.

In re: WPA No. 15107 of 2022

WPA No. 15107 of 2022 is disposed of in terms of the order passed in WPA No. 15109 of 2022 in view of the identity of the nature of the allegations.

The restraint order passed in WPA No. 15109 of 2022 shall also be applicable in respect of WPA No. 15107 of 2022 and no coercive action against the writ petitioners should be taken prior to disposal of the dispute by the GRO on the basis of the claim of alleged outstanding dues of the petitioners as raised in the disputed bill in WPA No. 15109 of 2022.

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.)