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11.03.2022
TN

WPA No.16906 of 2021

Duryadhan Ghosh
Vs.
West Bengal State Electricity Distribution
Company Limited (WBSEDCL) and others

Mr. Uday Sankar Chattopadhyay,
Mr. Santanu Maji,
Mr. Suman Sankar Chatterjee,
Mr. Pronoy Basak,
Mr. Sayan Chattopadhyay,
Mr. Subhayu Das,
Ms. Trisha Rakshit

.... for the petitioner

Mr. Srijan Nayak,
Mr. Sourav Chaudhuri

.... for the WBSEDCL

Learned counsel for the petitioner contends that the petitioner required electricity connection for the winter season, for which the petitioner had applied for a temporary electricity connection, which was pending. From Annexure-P4 at page-48 of the writ petition, it is evident that the WBSEDCL had raised a quotation for giving a temporary connection to the petitioner as per the petitioner's application.

Irrespective of the existence of any previous temporary connection, fact remains that at the

relevant point of time when the quotation was raised, that is, on or about July 22, 2021, the petitioner was not enjoying any electricity connection, either temporary or permanent, as borne out by the pendency of the petitioner's application for temporary connection at that juncture.

Soon thereafter, to be precise, after about a week thereafter, the WBSEDCL lodged a complaint against the petitioner on the ground of pilferage of electric supply/unauthorised user of electricity and, on the basis of such complaint, also raised a provisional assessment bill. The present writ petition was filed by the petitioner against the said provisional bill. Since there was no interim order passed in connection with the writ petition, as there was no occasion for passing any such order till then, a final order of assessment has been passed in the meantime.

Learned counsel for the petitioner contends that the said final assessment was done behind the back of the petitioner, without giving any hearing to the petitioner.

Learned counsel appearing for the Distribution Licensee controverts such submission of the petitioner and submits that the final assessment was made by following due procedure of law and, moreover, the

governing WBERC Regulations provide for a specific appellate authority which deals with the disputes raised in the present writ petition.

A perusal of the pleadings of the parties and the materials on record go on to reveal that at the relevant juncture, when the theft was allegedly perpetrated, the petitioner's application for temporary electricity connection was pending.

Hence, it is evident that the petitioner was not enjoying any electricity connection at that point of time. So the allegation against the petitioner regarding pilferage from a different consumer number cannot be ruled out on the ground of credibility.

Moreover, the assessment has reached its culmination within the purview of Section 126 of the Electricity Act, 2003. The recourse open to the petitioner against such final order of assessment, on whatever ground, including the ground of the petitioner not being given an opportunity of hearing, is a challenge before the appellate authority as provided in law.

As far as the allegation of pilferage is concerned, this court cannot go into merits of such allegation, since the same is pending before an appropriate criminal forum.

That apart, since the petitioner has a remedy before the appellate authority, there is no scope of interfering with the assessment made by the Distribution Licensee in the present writ petition.

Accordingly, WPA No.16906 of 2021 is disposed of by granting liberty to the petitioner to approach the appellate authority with a challenge against the final order of assessment passed by the Distribution Licensee.

If so approached, the appellate authority shall decide the appeal in accordance with law, upon giving opportunity of hearing to all concerned, as expeditiously as possible, preferably within two months from the date of preference of the appeal.

It is reiterated that the merits of the allegations and counter-allegations made by the petitioner and the Distribution Licensee against each other have not been entered into at all by this court.

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.)