

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 16134 of 2022

Dipali Mondal
Vs.
West Bengal State Electricity
Distribution Company Limited & Ors.

Mr. D.N. Bose,
Mr. Sujit Chowdhury
...for the petitioner

Mr. Srijan Nayak,
Ms. Rituparna Maitra
...for the WBSEDCL

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

Learned counsel appearing for the petitioner contends that by a previous order dated January 08, 2019, a coordinate Bench of this Court decided W.P. No. 20515(W) of 2018, on the basis of a writ petition by the present writ petitioner challenging the correctness of the readings of the electricity meter of the petitioner. It is submitted that the grievance raised before the coordinate Bench was to the effect that till August, 2013, all the electricity bills were issued erroneously in view of the meter itself being defective.

It is submitted that subsequently also another defective meter was installed after replacing the earlier

meter, for which the reading of the subsequent period was also faulty.

It is submitted that, however, when the petitioner approached the Ombudsman pursuant to the leave granted by the coordinate Bench, the Ombudsman decided the grievance of the petitioner by observing, inter alia, that the WBSEDCL shall cancel all the electricity bills raised in respect of the service connection from 10.09.2013 up to the date of generation of the last electricity bill of the service connection of the complainant and regenerate the same on estimated average monthly consumption basis to be calculated as per the accumulated consumption as found in the meter of the complainant from 10.09.2013 till date, allowing tariff benefit and after adjustment of the payment made by the complainant.

At the juncture when the earlier writ petition was decided, that is, January 08, 2019, as well as in 2018, when the said writ petition had been preferred, the objection, if any, of the petitioner in respect of the subsequent meter after August 2013 being defective, was also available to the petitioner. However, there is no reflection in the order of the learned Coordinate Bench to indicate that such objection was taken by the petitioner at any point of time.

In the event such objection was not taken previously, the said objection cannot now be taken by the petitioner for the first time, upon completion of the entire exercise of decision before the Ombudsman, pursuant to the order of the coordinate Bench, by operation of the principle of constructive *res judicata*. In the event such objection was raised but not taken into consideration or decided by the coordinate Bench, the same would be deemed to stand rejected.

Hence, there is no scope, at this juncture, to prefer a belated challenge to the correctness of the meter, which was installed after replacing the earlier defective meter, from the end of the petitioner.

Hence, the present challenge ought not to be entertained by the Writ Court. However, in the event the petitioner has any other challenge on any other ground than that of defective meter in respect of the electricity charges raised subsequently as per the direction of the Ombudsman, it will be open to the petitioner to approach the concerned Grievance Redressal Officer afresh, for deciding such dispute.

If so approached, the Grievance Redressal Officer shall decide the same in accordance with law, upon giving adequate opportunity of hearing to all concerned.

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 of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)