

28.07.2022
sayandeep
Sl. No. 04
Ct. No. 05

WPA 16269 of 2022

Shibu Dey
-Versus-
CESC Limited & Anr.

Mr. Bidyut Kr. Halde
Mr. Indranil Halder

..... for the petitioner

Mr. Debanjan Mukherjee

....for the CESC Limited

The petitioner prays for a direction on the respondent Licensee to reconnect the electricity supply to the petitioner and to quash the provisional and final orders of assessment dated 22.6.2022 and 28.6.2022. According to learned counsel appearing for the petitioner, the supply of electricity was disconnected by CESC (Licensee) on 26.2.2022. Counsel further submits that the petitioner filed an application for anticipatory bail which was granted by a Division Bench on 13.7.2022 directing the petitioner to pay 50% of the final assessment bill. The petitioner disputes the provisional and final orders of assessment as well as the absence of notice before disconnection of the electricity supply.

Learned counsel appearing for the Licensee Company submits that an outstanding amount of Rs. 72,519/- remains to be paid by the petitioner and that the electricity line will be reconnected only upon full

payment. Counsel appearing for the parties have relied on decisions in support of their contentions.

Upon hearing learned counsel, section 126 of The Electricity Act, 2003, provides for assessment by the Assessing Officer in case of unauthorised use of electricity and the charges to be paid by the person who has benefitted by such unauthorised use. Section 126(4) provides that any person served with the order of provisional assessment may accept such assessment and deposit the assessed amount with the Licensee within 7 days of service of such provisional assessment order. Section 127 provides for appeal to the Appellate Authority where a person may challenge the final order made under Section 126 within 30 days from the date of order to the Appellate Authority. Section 127(2) requires deposit of half of the assessed amount with the Licensee along with the appeal. The third *proviso* to Section 135(1A) of the Act also provides for deposit/payment of the assessed amount in accordance with the provisions of the Act.

Therefore, the statutory provisions indicate that there is no scope for reconnection upon payment of 50% of the assessed amount. The only provision which envisages 50% is Section 127 where the persons aggrieved may prefer an appeal upon payment of half of the assessed amount.

In *Santosh Agarwal vs. The CESC Limited* (WPA No. 18448 of 2021), a learned Judge of this Court held that a consumer is not entitled to get restoration of connection upon payment of 50% or any other fraction of the total assessed amount. This judgment was affirmed by a Division Bench of this Court by order dated 5.5.2022 where the Division Bench also relied on Regulation 6.4 of the West Bengal Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2013. Regulation 6.4 provides for payment of the assessed amount by a consumer after being served with the order of provisional or final assessment. The Division Bench agreed with the view taken by the learned Judge that the reconnection of electricity cannot be made on deposit of 50% of the assessed amount.

The orders shown on behalf of the Licensee are of December, 2021 and May/June, 2022 which are more recent in point of time compared to the orders of a Coordinate Bench of February, 2021. Counsel appearing on behalf of the petitioner has not placed any order of the Appeal Court where the view taken by another learned Single Judge that reconnection may be made upon payment of 50% of the amount was confirmed.

WPA 16269 of 2022 is accordingly disposed of with liberty to the petitioner to pay the balance amount

as indicated in Annexure P-5 of the writ petition or the entire assessed amount as the case may be, to the respondents within a period of 7 days or earlier. The respondents shall reconnect the electricity supply to the petitioner within 48 hours from the date on which the outstanding amount is paid by the petitioner to the respondent Licensee. The petitioner is also at liberty to approach the Appellate Authority if the petitioner is entitled to do so under the provisions of the 2003 Act.

Urgent Photostat certified copies of this order, if applied for, be supplied to the parties upon fulfillment of requisite formalities

(Moushumi Bhattacharya, J.)