

3rd August,
2022
(AK)
15

W.P.A 16873 of 2022

Bela Vyas

Vs.

The CESC Limited and others

Mr. Supriyo Chattopadhyay

...for the petitioner.

Dr. Madhusudan Saha Ray

...for the CESC Limited.

Learned counsel for the petitioner submits that an exorbitant final assessment has been made in respect of the petitioner's electricity connection on grounds of unauthorized use of electricity.

Learned counsel submits that it will be evident from the load profile for the last twelve months, which has been annexed to the writ petition, that the petitioner's concern had been closed for quite a long period and, as such, such exorbitant consumption was not possible at all.

Learned counsel appearing for the Distribution Licensee places reliance upon Section 127 of the Electricity Act, 2003 and points out that there is a specific provision for appeal against such an order of final assessment, the prerequisite for which is deposit of fifty per cent of the assessed amount.

Since the law merely permits the preference of an appeal upon deposit of fifty percent of the amount, the

prayer of the petitioner to direct restoration of electricity connection on payment of a fraction of the assessed amount cannot be granted, since it would tantamount to granting the relief claimed in the appeal, if filed, itself.

The judgment of the learned coordinate Bench cited by the petitioner, dated March 29, 2010 (*Prithwi Ranjan Das vs. CESC Ltd. & Ors.*), cannot be said to be a precedent in this context, since the scope and rigour of Section 127 of the 2003 Act was neither argued/cited nor considered or discussed at the time of passing of such order.

Hence, in view of the aforesaid discussions, there is no scope for the writ court to enter into a fact-finding exercise to ascertain the veracity of the final order of assessment.

However, it will be open to the petitioner to challenge the final order of assessment before the competent appellate authority within the scope of Section 127 of the Electricity Act, 2003.

If so preferred, the appellate authority shall decide the same, subject to compliance of all formalities by the petitioner, including the deposit of fifty per cent of the assessed amount, as expeditiously as possible, preferably within six weeks from the date of preferring the appeal, in accordance with law.

WPA 16873 of 2022 is, accordingly, disposed of on the above terms.

Since no affidavit has been invited in the matter it is deemed that none of the allegations made in the writ petition are admitted by the respondents.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)