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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

W.P.A. No. 19503 of 2021

(Via video conference)

**M/s. Eco Friendly Group
-vs.-
The State of West Bengal & Ors.**

Mr. Lalratan Mondal
...for the petitioner

Mr. Sujit Sankar Koley
...for the WBSEDCL

Ms. Shipra Majumdar,
Ms. Sangeeta Roy
...for the State

The limited scope of challenge in the present writ petition is that the petitioner seeks damages for disconnection of electric supply to the petitioner's meter from the year 2017 to the year 2021, despite the meter installed at the behest of the Distribution Company being defective during the said period.

Learned counsel appearing for the petitioner submits that the Ombudsman, by her/his order dated August 17, 2021, has lastly directed the Distribution Company to proceed to regenerate fresh bills, in terms of Clause 3.6 of Regulation 55 of the WBERC dated August 07, 2013 and if the outstanding amount so determined is found to be lesser than the actual

amount, the difference amount is to be paid by the appellant; if it is found that the bill amount is in excess, the difference shall be adjusted with future energy bills. As such, learned counsel for the petitioner submits that there was limited scope of asking for the relief before the Ombudsman, since the defect was detected subsequently.

Learned counsel appearing for the Distribution Company, however, submits that the petitioner, by his conduct, has waived the right to claim damages, since no such prayer was made during the entire proceeding before the Ombudsman.

Although the objection taken by the Distribution Company has a reasonable basis, I am not inclined to enter into the merits of the said contention, since any observation thereon by the writ court might prejudice the Ombudsman if the matter is ultimately relegated to the Ombudsman for decision. However, since the claim of damage has been made by the petitioner, without going into the merits of the said claim and/or the maintainability of the same, W.P.A. No. 19503 of 2021 is disposed of by granting liberty to the petitioner to approach the Ombudsman within a week from date seeking damages, as prayed in the instant writ petition. The Ombudsman, if such approach is made within a week from date, shall decide upon such question in accordance with law upon giving

adequate opportunity of hearing to all the interested parties.

It is clarified that the question of maintainability and the veracity of the petitioner's claim are left open for being argued before, and decided by, the Ombudsman.

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.)