

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 19756 of 2022

Smt. Purna Banerjee
Vs.
West Bengal State Electricity
Distribution Company Limited & Ors.

Ms. Sudeshna Basu Thakur,
Ms. Upanita Das
...for the petitionr

Mr. Soumyajit Chakraborty
...for the WBSEDCL

Affidavit-in-opposition and affidavit-in-reply filed
in Court today be kept on record.

Learned counsel appearing for the petitioner
argues that despite having no connection with one
Saktijit Chatterjee, the private respondent herein, the
West Bengal State Electricity Distribution Company
Limited (WBSEDCL) issued a letter to the petitioner
indicating that the other existing electricity meters at
the premises, apart from Saktijit's meter, would also be
disconnected due to the outstanding amounts left by
the latter.

It is argued that the WBSEDCL has annexed a
purported report on inspection, which was never held
in the presence of the present writ petitioner.

It is also argued that in the absence of any nexus
between the private respondent, Saktijit Chatterjee and

the petitioner, Smt. Purna Banerjee, the WBSEDCL acted without authority in threatening disconnection of the petitioner's meter merely because it is situated at the same premises.

Learned counsel appearing for the WBSEDCL places reliance on Annexure P-4 to the affidavit-in-opposition, which indicates that it is a joint inspection report, also carrying signature of the private respondent apart from the personnel of the WBSEDCL.

It is seen from the said report that as the per purported inspection dated October 13, 2022, it was found that there is no separate establishment of Smt. Purna Banerjee, the petitioner. It is further alleged in the report that that there is one meter at present bearing No. P 1238158 at the premises, that is, 15, Haranath Bose Road and electricity supply of Saktijit Chatterjee is taken at the premises from the meter of Smt. Purna Banerjee. Saktijit Chatterjee, the private respondent, apparently confirms such position.

However, the purported inspection report, which was conducted, if at all, behind the back of the present petitioner, cannot bind the petitioner in any manner whatsoever. It is well-settled that one person cannot be bound by the admission of another. Even if Saktijit Chatterjee, the private respondent, has admitted such user of electricity from the petitioner's meter, no such allegation has been raised in that regard at any point

of time by the WBSEDCL against the petitioner. No prior notice or indication has been given, apart from the purported report annexed to the affidavit-in-opposition, with regard to such new allegation being levelled against the petitioner.

In any event, even as per the submission of WBSEDCL, the petitioner and the private respondent have been enjoying electricity from the same premises, but from different meters.

Since the WBSEDCL is now alleging subsequent user of electricity from the petitioner's meter by the private respondent, it cannot, by any stretch of imagination, be said that such subsequent act, if proved, can establish a nexus respectively between the petitioner and the private respondent at the relevant juncture for which the outstanding dues are due.

Since the outstanding dues were left by Saktijit Chatterjee, when there was no nexus at all between the petitioner and the private respondent, in any event, the WBSDECL acted *de hors* the law in threatening disconnection of the petitioner's electricity supply on the ground of outstanding dues having been left by a different person, that is, the private respondent.

Hence, the disconnection notice/portion thereof threatening severance of electricity connection to the petitioner cannot stand the scrutiny of law.

Accordingly, W.P.A. No. 19756 of 2022 is allowed, thereby setting aside the disconnection notice to the extent that the WBSEDCL warned disconnection of the petitioner's electricity supply on the ground of outstanding dues having previously been left by the private respondent.

However, it is made clear that nothing in the order shall preclude the WBSEDCL from levelling allegations of any unlawful act subsequently undertaken by the petitioner with regard to user of electricity, to justify further steps being taken in future by the WBSEDCL in that regard.

If such steps are taken, it will, needless to say, remain open for all concerned, including the petitioner, to contest such case before the appropriate forum having jurisdiction.

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.)