

18.07.22
SI-01
Ct.32
(S.R.)

MAT No.1189 of 2015
with
CAN No.1 of 2015 (Old No. CAN 12257 of 2015)
with
CAN No.2 of 2016 (Old No. CAN 976 of 2016)

Murari Mohan Pal
v.
WBSEDCL & Ors.

Mr. Sukumar Ghosh	
Ms. Moumita Ghosh	... for the appellant.
Mr. Ritwik Pattanayak	... for the respondent no.3.
Mr. Srijan Nayak	
Ms. Rituparna Maitra	... for the WBSEDCL.

The present appeal has been preferred challenging a judgment order dated 15th May, 2015 passed in a bunch of writ petitions including a writ petition being W.P. No.19851 (W) of 2014. The said writ petitions were preferred by the West Bengal State Electricity Distribution Company Limited (in short, the licensing company) challenging the orders passed by the *Ombudsman*.

As we have invited Mr. Ghosh, learned advocate appearing for the appellant to advance his arguments on merits of the matter, the delay in preferring the present appeal is condoned and the application for condonation of delay being CAN No.976 of 2016 is disposed of.

Mr. Ghosh submits that challenging the judgment dated 15th May, 2015 several appeals were preferred by the West Bengal Electricity Regulatory Commission (in short, the Commission) as well as by the consumers. Some of the said

appeals were finally considered by a Coordinate Bench of this Court and a judgment was delivered on 1st February, 2016 setting aside the judgment of the learned Single Judge dated 15th May, 2015 and upholding the order of *Ombudsman*. Another appeal preferred by one of the consumers being MAT No.261 of 2019 was also disposed of on 24th April, 2019 by another Coordinate Bench of this Court setting aside the judgment of the learned Single Judge. Let the said order dated 24th April, 2019, as produced, be kept on record.

Mr. Nayak, learned advocate appearing for the licensing company submits, upon instruction, that the issues involved in the writ petitions which were disposed of by the judgment dated 15th May, 2015 had not attained finality. In support of such contention, he has placed reliance upon a judgment dated 21st August, 2019 passed in several writ petitions including a writ petition being W.P. No.15755 (W) of 2016 and the judgment dated 11th March, 2020 passed in the appeal being FMA 675 of 2020.

Mr. Nayak submits that upon considering the earlier judgment dated 1st February, 2016, the learned Single Judge in W.P. No.15755 (W) of 2016 and other writ petitions formulated questions and observed that the matters need to be placed before the Hon'ble Chief Justice to constitute an appropriate larger bench to address the questions framed. By the judgment dated 11th March, 2020 passed in appeal it was, *inter alia*, directed that all the writ petitions need to be considered on merits. As such, the issues involved in the

writ petitions disposed of by the judgment dated 15th May, 2015 stand reopened and need to be addressed by this Court.

We are unable to accept such submission of Mr. Nayak. It is true that by the judgment dated 21st August, 2019 passed in W.P. No.15755 (W) of 2016 several issues were framed and it was directed that the matters need to be placed before the Hon'ble Chief Justice to constitute an appropriate larger bench. However, the appeal preferred against the said judgment was disposed of on 11th March, 2020 setting aside the judgment dated 21st August, 2019 and observing *inter alia* that the writ petitions decided by the common judgment and order would have to be decided '*purely on the merits of the matters as to the quantum of compensation directed to be paid by the Ombudsman without going into the question of the Ombudsman's authority to award compensation*'.

In course of hearing, Mr. Pattanayak, learned advocate appearing for the respondent no.3 has also pointed out to us an order 24th April, 2019 passed by another Coordinate Bench of this Court in MAT No.261 of 2019 setting aside the judgment of the learned Single Judge dated 15th May, 2015. Placing reliance upon the same he submits that the issues involved in the present appeal have already attained finality.

The said issues were also decided by a judgment dated 1st February, 2016 passed earlier by a Coordinate Bench of this Court in the case of FMA No.3291 of 2015 and MAT

No.1182 of 2015. Challenging the judgment dated 1st February, 2016 delivered in the said appeals, a Special Leave Petition was preferred by the licensing company, which was dismissed by the Hon'ble Supreme Court. A review petition preferred subsequently by the licensing company before this Court had also been dismissed.

In the said conspectus, we are of the opinion that the present appeal must also succeed. The order impugned in the present appeal is, accordingly, set aside and we direct that the order passed by the *Ombudsman* shall be immediately given effect to within a period of two weeks from the date of communication of this order to the *Ombudsman*.

The appeal and the connected stay application being CAN No.12257 of 2015 are, accordingly, disposed of.

There shall be no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Raja Basu Chowdhury, J.) (Tapabrata Chakraborty, J.)