

AD-12
Ct No.09
14.09.2022
TN

WPA No. 20580 of 2022
With
WPO No. 2271 of 2022
GA 1 of 2022

Jaishree Steels (P) Limited and another
Vs.
West Bengal State Electricity Distribution
Company Limited and others

Mr. Ratnanko Banerjee,
Mr. Jishnu Chowdhury,
Mr. Ratnesh Kr. Rai,
Mr. S. N. Pandey,
Mr. Ankan Rai,
Mr. Ashutosh Singh

.... for the petitioners

Mr. Abhratosh Majumder,
Mr. Suddhasatva Banerjee,
Mr. Chayan Gupta,
Mr. Sandip Dasgupta,
Mr. Saaqib Siddiqui,
Mr. Aviroop Mitra

.... for the respondents

In Re: GA 1 of 2022

GA 1 of 2022 filed in connection with WPO
No. 2271 of 2022 is taken up for hearing first.

The crux of the challenge mounted in WPO
No. 2271 of 2022 is that the Late Payment Surcharge
(LPS) component of the electricity bills was charged
unlawfully by the West Bengal State Electricity
Distribution Company Limited (WBSEDCL) against the
petitioners. In the said writ petition, on August 16,

2022, an order was passed, whereby the LPS component of the electricity bills charged by WBSEDCL from the petitioners were to remain stayed, subject to the current electricity charges being paid regularly and within time by the petitioners. It was also clearly recorded that in default of the payment of such current charges, the interim order shall stand automatically vacated without further reference to court.

In the present case, it is an admitted position that the current electricity charges for a certain period were not paid, even after the order dated August 16, 2022 by the petitioners. On such ground, a show-cause notice was issued by the WBSEDCL and ultimately time was granted to the petitioners by the WBSEDCL finally till August 31, 2022 for making all the due payments.

However, in a communication dated September 05, 2022, the petitioner-company informed the Chief Engineer – Commercial of the WBSEDCL, *inter alia*, that the due date of power bill against the notice was August 31, 2022, on which date, due to the occasion of “Ganesh Chaturthi”, all corporate offices of the petitioner were closed and so the full payment of the due monthly bill amount could not be made. However, on September 01, 2022, the petitioners had

made the full payment of the power bill of July, 2022. Rs.1.50 crore was returned out of such payment due to some bank server problem, which was then transferred on the very next date, that is, September 02, 2022 by the petitioner.

The learned Senior Advocate appearing for the WBSEDCL controverts such contentions and submits that a stringent condition was put by virtue of the order dated August 16, 2022 on the petitioners and the interim order granted in favour of the petitioners was to stand automatically vacated without further reference to the court in default of payment of current charges. Not only did the petitioner fail to pay such charges in time even after the said order but even skipped the last date as stipulated by the show-cause notice issued by the WBSEDCL, that is, August 31, 2022 by two days to complete the full payment of the short amount.

As such, there is no scope, it is submitted, of the said order being revived at this juncture when the same stood automatically vacated by virtue of non-compliance of the rider to such order by the petitioners.

Upon a consideration of the contentions raised by the parties, it transpires that sufficient *bona fide* reasons for late payment by two days have been made

out by the petitioners in the application, that is, GA 1 of 2022. Since the last date as per the show-cause notice was August 31, 2022, on which date all corporate offices of the petitioner were apparently closed and the petitioners sought to tender the entire amount on the very next date but failed due to unavoidable circumstances of a bank server problem and deposited it on the very next date, that is, on September 02, 2022, it cannot be said that the petitioners deliberately flouted the order of this court dated August 16, 2022.

If, for such minor technical default, the interim order is permitted to be vacated, it will tantamount to dismissing the writ petition itself prior to a decision on merits, since the crux of the writ petition pertains to the dispute regarding the LPS, that is, Late Payment Surcharge.

Hence, considering the circumstances of the case, GA 1 of 2022 is allowed, thereby modifying the order dated August 16, 2022 passed in WPO No. 2271 of 2022 and extending the last date for depositing the current arrear charges till September 02, 2022.

Hence, it will be deemed that the temporal extent of the order dated August 16, 2022 stretches till September 02, 2022 and the condition stipulated therein was duly complied with by the petitioners.

However, it is made clear that in the event the petitioners commit even a single further default in payment of current electricity charges, the interim order granted on August 16, 2022 and modified by this order shall automatically stand vacated without any further opportunity to the petitioners to pray for further modification and/or recall of the condition of stay.

In Re: WPA No. 20580 of 2022

WPA No. 20580 of 2022 is, accordingly, disposed of in terms of the above order. The WBSedCL shall restore the electricity connection to the petitioners by September 16, 2022, subject to payment of disconnection charges and reconnection charges by the petitioner.

In Re: WPO No. 2271 of 2022

The time for filing affidavits-in-opposition in WPO No. 2271 of 2022 is extended till November 11, 2022. Time for filing reply is also extended till November 25, 2022.

WPO No. 2271 of 2022 shall now be enlisted next on December 13, 2022.

(Sabyasachi Bhattacharyya, J.)