

**FMA 418 of 2022
With
CAN 1 of 2022**

**Sanjay Choraria
Vs.
CESC Limited & Ors.**

Mr. Bidyut Kr. Halder
Mr. Indranil Halder

... ... for the appellant

Dr. Madhusudan Saha Ray
Mr. Debanjan Mukherjee

... ... for the CESC

This appeal is at the instance of the writ petitioner challenging the order of the learned Single Judge dated 23rd November, 2021 whereby the WPA 17731 of 2021 has been dismissed by the learned Single Judge.

The appellant/writ petitioner had approached the Writ Court with the plea that the petitioner's father is the owner of the premises in question and the said premises is duly mutated in his name, therefore, the petitioner had applied for a new connection for commercial purpose before the respondent authority and by letter dated 24.11.2015 he was informed that the respondents were not in a position to entertain the request of separate LT supply as the High Tension supply exists.

The petitioner again applied for a new connection for the commercial purpose and the same was also turned down by the communication dated 14.09.2018. The third request made by the petitioner was rejected with a regret letter dated 30.11.2018.

Therefore, the petitioner had filed WP 10771 (W) 2019 which was dismissed on 23.07.2019 with liberty to the petitioner to approach the Grievance Redressal authority.

Thereafter, on being so approached, the Grievance Redressal Officer had passed the order on 13th September, 2019 against which the petitioner had approached the Ombudsman who by order dated 24th September, 2021 had rejected the case of the petitioner.

Aggrieved by this order, the petitioner had approached the learned Single Judge seeking a direction to the respondent authorities to grant him to install a new meter as also questioning the order of the Ombudsman.

Learned Single Judge after hearing learned counsel for both the parties and also taking note of provisions which are contained in Section 43 and 53 and Clause 14 of the West Bengal Electricity Regulatory Commission Act, 1988 and taking note of the questions examined by the Ombudsman has rejected the petition.

Submission of learned counsel for the appellant is that the appellant is the owner of the separate premises, therefore, in terms of Section 43 of the Electricity Act he has a right and the respondents have a duty to provide a new separate connection to the appellant and that in the earlier three rejection orders no such issue of safety hazard was raised which now the respondents are raising.

Learned counsel for the respondents has referred to Section 53(b) of the Act and has submitted that on account of the safety reasons, new separate connection cannot be provided to the appellant and the appellant is having an electricity connection from the block meter and is drawing the electricity therefrom.

Having heard the learned counsel for the parties and on perusal of the record it is noticed that though Section 43 of the Act casts a duty upon the respondent company to give the supply of electricity on application by owner or occupier or any premises but sub-section 1 of Section 43 starts with saving Clause providing that “save as otherwise provided” in this Act.

Section 53(b) of the Act empowers the respondent electricity company to specify suitable measures for eliminating or reducing the risks of personal injury to any person, or damage to property of any person or interference with use of such property.

The issue relating to right and entitlement of the appellant to have a separate electricity meter has duly been considered in detail by the Ombudsman while passing the order dated 24th September, 2021 and the Ombudsman has assigned due reasons as to why a separate independent electricity connection cannot be granted to the appellant by recording as under :

“13. The Distribution Licensee reportedly didn’t provide any individual metered connection at the above premises since last 15 years or more, upon installation of the said metered connection in favoure of M/s HR Infracon Limited of which the

Consumer ID No. is 85243002005 and meter no. 3488328 respectively.

The Appeal Petitioner is deriving supply of electricity from this meter no.3488328 since long 25 years or even more along with other beneficiaries 35 (thirty five) in number who are also deriving electricity through different sub-meter from this existing meter and that is why the characteristics of this meter (meter no.3488328) is deemed to be of a 'Block Meter'.

So, if the distribution licensee provided the Applicant (Appeal Petitioner here) with a new separate metered connection, they should get ready to provide another 35 (thirty five) nos. individual new separate metered connection at the same premises. This is practically not feasible for the Distribution Licensee because of the reasons appended below :

- a) As the occupiers (36 nos. including that of the applicant (Appeal Petitioner here) who are the beneficiaries are deriving power through sub-meters from this existing meter (No. 3488328) and chances of intentional splitting of load cannot be ruled out and this would be a violation of regulation 14 of 53/WBERC dated 02 April 2013.
- b) The Act of installation of such huge no. of new separate metered connections (here 36 in number) along with the commensurable number of services within this premise will convert the same into a Virtual Tinderbox, where possibility of electrical accidents and fire will increase manifold due to huge multiplicity of consumer's wirings which would eventually be spread across the buildings/blocks. This would go in violation of Section 53 of the Electricity Act, 2003.
- c) Moreover, in order to accommodate so may meters in one premise, the Distribution Licensee will be in need to install a substantial number of new underground services (underground cables etc) and for that purpose adequate space will be required to accommodate such huge number of services/meters and major excavations have to be carried out within the premise and the current condition of the premise building will not technically permit the Distribution Licensee to do so for all practical purpose and so the proposition for installation of separate

individual metered connection is not a practically viable/feasible option on the part of the Distribution Licensee.

The aforesaid reasons cited by OP is considered by this forum and recorded.

14. Now, on making a situation analysis of this instant case, the following observations are made on it:

- (a) The premise under question may be treated as a fit case under regulation 18 of 53/WBERC dated 02 April 2013.
- (b) The instant premise is a case of large number of Consumers in a relatively small premises and there is every possibility of fire and safety hazards because of multiplicity of the wirings of such a large number of Consumers.
- (c) So, in this instant premises, the Distribution Licensee may effect supply of electricity to all the Consumers/Intending Consumers through a suitable located common meter of adequate capacity, to be known as a Block Meter and here the meter no.3488328 standing in the name of M/s HR Infracon Limited having Consumer ID No.85243002005 may be treated as a BLOCK METER.
- (d) So, there existed a system already in this instant premises which is identical and similar to the case where the Distribution Licensee may effect supply of electricity to a large no. of Consumers in a relatively small premises through a common meter of adequate capacity to be known as a BLOCK METER and the existing meter no.3488328 in acting and catering electricity to 36 (thirty six) no. Consumers (including the Appeal Petitioner of this instant case) as a BLOCK METER in terms of regulation 18 of 53/WBERC dated 02 April 2013.

15. So, it is better to continue with the present system in order to reduce the risk factor of arising electrical fire accident i.e. to maintain status quo with the existing meter no.3488328 instead of providing individual metered connections to all Consumers (36 in no.) including the Appeal Petitioner.”

This Court is not sitting as a Court of appeal against the order of the Ombudsman, who has already examined all the relevant aspects of the matter. We find that due reasons have been assigned by the Ombudsman for rejecting the prayer made by the appellant. The issue relating to disconnection of electricity to the premises of the appellant was also raised before the Ombudsman but such a plea has been found to be an afterthought by the Ombudsman by assigning due reason in paragraph 32 of the order.

Having perused the order of the learned Single Judge, we find that learned Single Judge has duly considered the relevant aspect of the matter and has not committed any error in dismissing the writ petition.

Hence, no case for interference is made out. The appeal is accordingly dismissed.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)