S/L. 29.
September 26, 2022.
MNS.

WPA No. 22244 of 2022

Shyam Ferro Alloys Limited and another
Vs.
West Bengal Electricity Regulatory
Commission and others

Mr. T. Chakraborty,
Mr. D. Basak,
Mr. V. Neogi

… for the petitioners.

Mr. Prasun Mukherjee,
Mr. Deepak Agarwal

…for the DVC.

Affidavit-of-service filed in Court today be kept on record.

Learned counsel for the petitioners contends that the petitioners have been enjoying electricity connection from the Damodar Valley Corporation (DVC) since around the year 1995.

It is further contended that at the juncture of taking such connection, a security deposit was put in by the petitioners, including a bank guarantee, bearing Bank Guarantee No. 210135 IBGF00002 dated November 15, 2021 drawn on the IDBI Bank Limited for an amount of Rs.6,54,60,400/-. Subsequently the petitioners sought to replace the said bank guarantee with cash and, accordingly, deposited cash equivalent to the said bank guarantee with the DVC. However, when the turn of the DVC came to return the said bank guarantee to the petitioners, the DVC refusing to do so and has been withholding the same. As such, it is prayed before this court that the DVC be directed to release the said bank guarantee in favour of the petitioners immediately.

Learned counsel for the DVC contends that there has been a recent tariff enhancement, for which the DVC is already recalculating the arrear dues of the consumers.

It is submitted that since the purpose of a security deposit is to secure the Licensee, the present bank guarantee, if returned at this juncture, may frustrate the claim of the DVC for arrear amounts at the enhanced rates, which it will be entitled to recover from the petitioners as consumers.

Upon hearing learned counsel for the parties, it transpires that it is an admitted position that the bank guarantee-in-question was replaced by cash equivalent by the petitioners, which has already been accepted by the DVC. Moreover, the security deposit-in-question had been given long back and the proposed post facto enhancement of tariff and consequential increase in arrears cannot have any direct bearing on the present claim of return of bank guarantee of the petitioners, more so, because the DVC is estopped from refusing to return the bank guarantee after having accepted the cash equivalent thereof. The relevant juncture, which has to be taken into consideration on this aspect, is the time when the security was initially furnished by the petitioners.

The present claim of the petitioners pertains merely to the return of the bank guarantee upon the petitioners already having replaced the said bank guarantee by equivalent cash amount. The DVC cannot claim any lien over the said bank guarantee on the basis of subsequent enhancement in tariff.

Hence, there is no justifiable reason for the DVC to withhold the bank guarantee-in-question of the petitioners.

Accordingly, WPA No. 22244 of 2022 is allowed, thereby directing the respondent no. 2 to return the bank guarantee bearing No. 210135 IBGF00002 dated November 15, 2021 of the IDBI Bank Limited, amounting to Rs.6,54,60,400/-, to the petitioners as expeditiously as possible, positively within a fortnight from date.

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 with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)