

D/L. 29.
November 15, 2022.
MNS.

WPA No. 23336 of 2022

Gautam Paul
Vs.
The Calcutta Electric Supply Corporation
and others

Mr. Gautam Banerjee

... for the petitioner.

Dr. Madhusudan Saha Roy

...for the CESC Limited.

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

Learned counsel for the petitioner argues
that from the month of July, 2021 till August,
2022, electricity bills were being sent to the
petitioner containing the endorsement "Please Do
not pay this bill". However, suddenly on
September 27, 2022, the CESC Limited
disconnected the electricity supply of the
petitioner and sent a provisional assessment bill
on the allegation of unauthorised use of
electricity/pilferage. It is submitted that such dual
stand of the CESC Limited cannot be acceptable
in law.

That apart, it is contended that during the entire period, the CESC Limited did not care to intimate the petitioner as regards the alleged pilferage.

Learned counsel appearing for the CESC Limited submits that the allegation of unauthorised use of electricity/pilferage has no nexus whatsoever with the non-payment of the petitioner's regular electricity bills for the relevant period, that is, from July, 2021 till August, 2022, but arise from a subsequent and separate cause of action, that is, pilferage, which was discovered only on September 27, 2022.

It is contended further that the petitioner had received a copy of the provisional assessment bill and upon giving an opportunity of hearing to the petitioner, the final order of assessment has since been passed on October 21, 2022.

The appropriate forum in law to prefer a challenge against the final order of assessment, once the same is passed, is the appellate authority under Section 127 of the 2003 Act.

However, since the writ petition was affirmed three days' prior to the final order of assessment, that is, on October 18, 2022, it is

deemed that due to pendency of the writ petition, the petitioner was under *bona fide* error in not challenging the final order of assessment before the appellate forum.

In such view of the matter, WPA 23336 of 2022 is disposed of by granting liberty to the petitioner to prefer an appeal against the final order of assessment made by the CESC Limited before the appellate authority, competent in law to decide appeals under Section 127 of the 2003 Act.

The learned Advocate for the CESC Limited is requested to hand over a copy of the final order of assessment to his counterpart appearing for the petitioner during the course of the day.

It is made clear that the merits of the contentions of the parties have not been gone into in this writ petition and the appellate authority will be at liberty to decide the appeal, if so preferred, in accordance with law and within the statutory limitation period commencing from today.

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.)