

AD-06
Ct No.09
23.11.2022
TN

WPA No. 24474 of 2022

CESC Limited and others
Vs.
State of West Bengal and others

Mr. Om Narayan Rai,
Mr. Debanjan Mukherji

.... for the petitioners

Mrs. Jhuma Chakraborty,
Mr. Aritra Ghosh

.... for the State

Mr. Imtiaz Ahmed,
Mr. Ghazala Firdaus,
Ms. Smita Saha,
Mr. Sk. Saidullah,
Ms. Neelanjana Ghorui

.... for the respondent nos.3 and 4

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

Learned counsel for the CESC Limited points
out that the District Consumer Disputes Redressal
Commission, North 24 Parganas at Barasat, passed
the impugned order dated October 13, 2022, thereby
usurping jurisdiction which is otherwise exercisable
by the Assessing Officer first and then the appellate
authority within the contemplation of Sections 126
and 127 respectively of the Electricity Act, 2003
(hereinafter referred to as “the 2003 Act”).

It is argued that it is an admitted position that the private respondents' electricity connection was severed on the allegation of theft and a proceeding has been initiated under Section 135 of the 2003 Act. However, the Consumer Forum, without taking into account the provisions of the 2003 Act, passed the impugned order patently without jurisdiction.

Learned counsel for the CESC Limited cites a coordinate Bench judgment delivered in the case of *CESC Limited and Another vs. State of West Bengal and Others*, reported at AIR 2022 Cal 319, in support of his contention.

Learned counsel appearing for the private respondents submits that the private respondents have cleared off substantial amounts of the alleged dues and, as such, ought to be given back the electricity connection.

However, it is well-settled that Section 126 and Section 127 of the 2003 Act operate in the field. As per the said provisions, any provisional order of assessment by the Distribution Licensee has to be contested initially before the Assessing Officer. Thereupon a final order of assessment is passed, a challenge against which is to be preferred before the designated appellate authority.

Without going through the said procedure, it is *de hors* the law for the private respondents to get the electricity connection. As such, the exercise undertaken by the District Consumer Forum by the impugned order dated October 13, 2022 is palpably *de hors* the law and without jurisdiction. Since the Electricity Act specifically provides the remedy and the forum and the right to challenge such an assessment under Section 126, there is no scope of interplay of the Consumer Protection Act in the sphere of such dispute.

Hence, WPA No. 24474 of 2022 is allowed, thereby setting aside the impugned order dated October 13, 2022 passed by the District Consumer Disputes Redressal Commission at North 24 Parganas, Barasat in C.C. No. 330/2022.

The private respondents, however, shall be at liberty to approach the designated appellate forum for preferring a challenge, if at all, against the final order of assessment made by the CESC Limited. If such a challenge is preferred, the appellate authority shall consider the same in accordance with law and come to its independent conclusions thereupon. It is expected that in the event such a challenge is preferred, the appellate forum shall decide the same as expeditiously as possible.

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.)