

AD-06
Ct No.09
30.11.2022
TN

WPA No. 25105 of 2022

Murad Ali Mandal
Vs.
West Bengal State Electricity Distribution Company
Limited (WBSEDCL) and another

Ms. Manali Biswas

.... for the petitioner

Mr. Sujit Sankar Koley

.... for the WBSEDCL

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

Learned counsel for the petitioner contends that the petitioner, being a cultivator of humble means, could not prefer an appeal under Section 127 of the Electricity Act, 2003 against the final order of assessment passed by the WBSEDCL under Section 126 of the Electricity Act, 2003. Such final order was passed in January, 2020 and on December 17, 2020, a previous writ petition bearing WPA 5207 of 2020, filed by the petitioner for waiver of the fifty per cent pre-requisite to prefer an appeal under Section 127, had been turned down by a coordinate Bench. It is submitted that the petitioner was not in a position to collect the lumpsum amount of fifty per cent in view of his financial distress and, as such, seeks a further

opportunity to deposit such fifty per cent and to prefer an appeal.

Heard learned counsel for the parties.

Despite having full sympathy with the petitioner due to his financial condition, it is not possible for the court to stretch its discretion patently beyond the limits imposed by statute. Since the specific limitation period for preferring an appeal under Section 127 has long elapsed and the petitioner has come after about two years even subsequent to the coordinate Bench having refused to grant waiver of the deposit of pre-requisite, it is not possible to bring the petitioner within the fold of Section 14 of the Limitation Act in the present case, to enable the petitioner to file the appeal now.

Despite the distress of the petitioner, if such a direction is passed, it may open a floodgate for unscrupulous litigants as well.

Hence, WPA No. 25105 of 2022 is disposed of without any order as to costs, however, granting liberty to the petitioner to approach the WBSEDCL for getting sufficient installments for the purpose of clearing off the outstanding dues and to get a restoration of the electricity supply and/or a new connection, as applicable. If such a request or an application is made before the WBSEDCL, it is

expected that the WBSEDCL shall consider the same sympathetically within a fortnight after making such request and communicate the decision to the petitioner at the earliest.

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.)