

19th December,
2022
(AK)
06

W.P.A 25289 of 2022

Harun Al Rashid and another
Vs.
The Chairman & Managing Director, West Bengal State
Electricity Distribution Company Limited
and others

Ms. Kavita Rani
...for the petitioners.

Dr. Madhusudan Saha Ray
...for the WBSEDCL.

Mr. Robiul Islam
...for the State.

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

Learned counsel for the petitioners submits that the
petitioners are cultivators and, being without legal
knowledge, instead of preferring an appeal under Section
127 of the Electricity Act, 2003, made a representation
before the appellate authority against a final order of
assessment passed on June 29, 2021 which was passed
against the petitioners on the allegation of pilferage of
electricity with regard to a submersible pump of the
petitioners.

It is contended that the petitioners are aggrieved by
the said final assessment.

Learned counsel appearing for the WBSEDCL, on
the other hand, contends that no appeal has been

preferred in its proper format before the appellate authority till date.

That apart, the appeal, even if proposed to be filed now, is hopelessly time-barred.

Heard learned counsel for the parties.

It is seen from the “representation” dated July 30, 2021 filed by the petitioners against the final order of assessment that a substantial challenge has been made out therein to the final order of assessment.

Since the challenge taken in the said representation substantially amounts to an appeal, although not in proper format, extending the benefit of doubt to the lack of legal knowledge of the petitioners, it is deemed that the petitioners have been proceeding *bona fide* before this forum against the final order of assessment.

The statute specifically stipulates an appellate authority for deciding such challenges under Section 127 of the 2003 Act.

Hence, it would not be prudent for the writ court to interfere in the matter upon an evaluation of facts at this juncture.

Accordingly, WPA 25289 of 2022 is disposed of by granting liberty to the petitioners to prefer an appeal under Section 127 against the final order of assessment passed by the WBSEDCL against the petitioners.

It is made clear that, for the purpose of filing of the appeal, the limitation shall be deemed to commence from this date, that is, the date of disposal of the present writ petition.

Parties shall act on the written communication of the learned Advocates for the parties, coupled with server copy of this order, without insisting upon prior production of a certified copy thereof.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)