

WPA 24705 of 2016
(Via Video Conference)

**Ila Chowdhury & Ors.
Vs.
The West Bengal State Electricity
Distribution Company Limited & Ors.**

Ms. Anita Khatri

..for the Petitioners

Ms. Mitali Bhattacharya

...for the WBSEDCL

The writ petition pertains to payment bills raised by one Pradip Chowdhury being proprietor of M/s Pradip Chowdhury since according to the work order dated 27th May, 2003, necessary work was carried out by said Pradip Chowdhury. During the course of carrying out such work under the relevant work order two workers died and three got injured in an accident, dispute cropped up on payment of compensation, whether such payment was to be made by said Pradip Chowdhury being the proprietor of M/s Pradip Chowdhury or the West Bengal State Electricity Distribution Company Limited being the principal respondent.

In search of redressal of grievance writ petitioners being the heirs of said Pradip Chowdhury filed a writ petition being WPA 949 of 2006 which was dismissed by a coordinate Bench vide a order dated 1st July, 2011 wherein it was found by the coordinate Bench that the issues involved in the writ

petition cannot be decided by the writ court in exercise of its power under Article 226 of the Constitution of India.

Petitioners being aggrieved by the order of the coordinate Bench dated 1st July, 2011 preferred an intra court appeal being FMA 54 of 2012 which was disposed of by the Hon'ble Division Bench vide a order dated 10th June, 2014. The relevant portion of the order of the Hon'ble Division Bench is quoted below:

“Question of negligence cannot be decided in writ petition. In the circumstances, we leave the question of inter se liability, open to the appellant to agitate in the appropriate forum.

However, the appellant is given liberty to submit the bills within one month from today and the Board will examine the bills after hearing the petitioner and take a reasoned decision with respect to the payment of bills within three months thereafter.

The order of the trial court is modified to the aforesaid extent.”

Pursuant to the order passed by the Hon'ble Division Bench, the West Bengal Power Distribution Company Limited took decision which was signed by Divisional Engineer and Divisional Manager (DE & DM), South Malda Division, WBSEDCL on 2nd December, 2015.

The relevant portion of such decision dated 2nd December, 2015 is quoted below:-

“REASONED ORDER

*In obedience to the aforesaid order of the Hon'ble High Court Calcutta the relevant records and hearing for natural justice on the above back drop outstanding bill amount may be released subject to payment of compensation to the dead & injured employees through the appropriate authority **that is Workmen's Compensation authority amounting to Rs. 12,55,651/-.***

Or

Deposit the difference amount of (Rs. 12,55,651-4,21,950)= Rs. 8,33,701/- to WBSEDCL authority so that we may deposit compensation amount to the Workmen's Compensation authority for settlement of the long pending dispute.

Thus, in obedience to the order dated 10.06.2014 of the Hon'ble Justice Sri Arun Mitra & Sri Joymalya Bagchi of Calcutta High Court in the matter of Ila Chowdhury is hereby disposed off."

After taking such decision by the concerned authority of the West Bengal State Electricity Distribution Company Limited, the present writ petition was filed wherein petitioners though have prayed for payment of Rs. 4,21,950/- for executing the work as per work order, but the decision taken by WBSEDCL dated 2nd December, 2015 has not been questioned. Unless and until said decision of WBSEDCL dated 2nd December, 2015 is challenged in an appropriate proceeding, no relief can be granted to the petitioners.

Therefore, the present writ petition is devoid of any merit and stands dismissed.

However, this order shall not preclude the petitioners to challenge the decision of WBSEDCL dated 2nd December, 2015 in accordance with law, if so advised.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Saugata Bhattacharyya, J.)