

14<sup>th</sup> December,  
2022  
(AK)  
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**W.P.A 26594 of 2022**

Monoj Kumar Malik  
Vs.  
State of West Bengal and others

Mr. Sarbananda Sanyal  
Ms. Poulami Chakraborty  
...for the petitioner.

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

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

Learned counsel for the petitioner challenges an order passed by the appellate authority under Section 127 of the Electricity Act, 2003.

It is submitted that the petitioner was suffering from a defective electricity meter for which several complaints were lodged with the WBSEDCL, but to no effect.

Subsequently an allegation of unauthorized use of electricity was levelled against the petitioner and a provisional assessment bill was raised.

Subsequently, the petitioner challenged the same before the appellate authority, which confirmed the finding without dealing with the allegations made by the petitioner in respect of the defective meter.

Learned counsel appearing for the WBSEDCL points out to a finding in the final order of assessment dated

March 3, 2020, annexed to the writ petition, to the effect that the accused had accepted the crime and promised not to commit such crime in future.

The accused had also stated that he is the sole earning member of his family and has no alternative source of income.

The accused has been recorded to have prayed for consideration and appealed regarding the final assessment bill.

Upon such plea of the accused (the present petitioner) the bill amount was considered and reduced.

Hence, it is submitted that there is no scope of challenge to the appellate authority's order.

A perusal of the final order of assessment dated March 3, 2020, annexed by the writ petitioner himself to the writ petition, clearly indicates the veracity of the allegations made on behalf of the WBSEDCL.

However, there is not a single line of allegation in the appeal filed by the petitioner before the appellate authority (Annexure-P9 at page-35 of the writ petition) to the effect that such recording of fact was erroneous.

In the absence of any challenge to such findings before the last fact-finding forum, that is, the appellate authority, it is no longer open to the petitioner to level such allegation for the first time in the present writ petition.

Hence, irrespective of the allegation regarding faulty meter, the unauthorized use of electricity having been admitted by the petitioner, no relief can be granted in the present writ petition.

Leave, however, is granted to the petitioner to approach the concerned Assessing Officer of the WBSEDCL with the prayer for restoration of electricity supply upon the petitioner paying the due amount by instalments.

If so approached, the concerned Assessing Officer shall sympathetically consider the same and come to a conclusion in his discretion.

Accordingly, WPA 26594 of 2022 is dismissed without any 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.)**