

January 10, 2022
ARDR
(5)

WPA 25067 of 2007

Probir Guchait
Vs.
West Bengal State Electricity
Distribution Company Limited & anr.

Mr. Tanoy Chakraborty,
Ms. Kasturi Tarafdar,
Ms. Sumitra Das,
...for the petitioner.
Mr. Sujit Sankar Koley,
...for the WBSEDCL.

Learned counsel for the petitioner argues that the petitioner agreed to pay the arrear electricity bills for getting reconnection. However, the Distribution Company has refused to give the same.

Learned counsel for the Distribution Company, by placing reliance on the Affidavit in Opposition of the said company, particularly clause (f) at page 4 of the opposition, indicates that, by now, a substantial amount is due in lieu of late payment surcharge up to November 26, 2021.

Learned counsel appearing for the petitioner places reliance on the petitioner's reply and argues that the break-up and/or detail of such charges have not been disclosed by the Distribution Company. It is further contended that the Electricity Act came into force only in the year 2003 and the Regulations in question, stipulating the entitlement to claim delayed

payment surcharge, was enacted in the year 2006. As such, it is argued that the Distribution Company could not charge any delayed payment surcharge retrospectively for any juncture prior to such enactments.

Learned counsel appearing for the Distribution Company relies on Section 185 of the 2003 Act and submits that any action, if committed even prior to the coming into force, could be given effect to subsequently. That apart, learned counsel for the Distribution Company indicates that the Writ Court cannot go into the merits of the allegations regarding non-payment, in view of the petitioner having admitted such arrears, which is evident from an Annexure to the writ petition itself (Annexure P/3 at page 15 thereof), which clearly contains an admission of the petitioner with regard to such liability.

Upon hearing learned counsel for the parties, it is evident that Annexure P/3 to the writ petition clearly shows that the petitioner agreed to arrears being payable to the Distribution Company on August 16, 2007. As such, there is no scope of the petitioner resiling from the said position subsequently by filing the present writ petition.

As far as the allegation of entitlement of the company to charge delayed payment surcharge is concerned, the WBERC Regulations have clearly

stipulated that the Grievance Redressal Officer (in short 'GRO') is the relevant authority to such issues, including billing disputes.

As such, it is beyond the purview of the Writ Court to go into the merits of the allegations and counter allegations regarding the alleged faulty billing by the Distribution Company.

Hence, WPA 25067 of 2007 is disposed of by granting liberty to the writ petitioner to approach the concerned GRO with the billing and ancillary disputes as canvassed in the present writ petition. If so approached within a week from date, the concerned GRO shall decide on the same in accordance with law upon giving a reasonable opportunity of hearing to all interested parties and decide the issue as expeditiously as possible, preferably within four weeks thereafter.

There will be no order as to costs.

CAN 1 of 2021 is consequentially disposed of.

Urgent photostat certified copy of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)