

M/L. 44.
November 7, 2022.
MNS.

WPA No. 9432 of 2020

Vivek Ruia
Vs.
West Bengal State Electricity Distribution
Company Limited and others

Mr. Subhojit Saha,
Mr. F. R. Molla

... for the petitioner.

Dr. Madhusudan Saha Roy

...for the CESC Limited.

Mr. Srijan Nayak,
Mrs. Rituparna Maitra

...for the WBSEDCL.

Learned counsel for the petitioner contends that the appellate authority under Section 127 of the Electricity Act, 2003 (2003 Act), in the impugned order dated March 17, 2020, did not look into the allegations levelled by the petitioner and/or consider the relevant circumstances while affirming the final order of assessment made by the CESC Limited under Section 126 of the 2003 Act.

Upon hearing learned counsel for the parties, it transpires that both parties seek to

draw attention of the court to the facts of the case on merits.

However, it is palpable from the impugned order of the appellate authority that the said authority did not give any reason, nor is any consideration of the relevant factors reflected from the said order of the appellate authority. The appellate authority merely observes that the appellant's previous statement about occurrence of inspection is contradictory and does not stand and straightaway proceeded to conclude that, thus, the respondent's (CESC Limited) assessment in this case under Section 126 of the 2003 Act is reasonable and correct. No basis for such assumption is reflected in the order of the appellate authority, thereby palpably vitiating the same.

In the event this Court, sitting in writ jurisdiction, goes into the merits of the contentions of the parties, the parties shall lose a forum by way of the appellate authority.

Hence, I do not feel it prudent to enter into the merits of the allegations and counter allegations of the parties.

Be that as it may, in view of the above observations, WPA No. 9432 of 2020 is disposed

of by directing the appellate authority under Section 127 of the 2003 Act to re-hear the parties in connection with the challenge raised before the said forum by the petitioner, from which the present writ petition arises, and thereafter to decide the matter afresh upon giving such further hearing to the parties and upon consideration of all relevant materials.

It is expected that such exercise shall be concluded by the appellate authority within a reasonably early period, preferably within four weeks from this date.

There will be no order as to costs.

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.)