

January 11, 2023
AD 15
Court No.1
SG

MAT 7 of 2023
with
CAN 1 of 2023

Smt. Sukla Bose
vs
The West Bengal State Electricity Distribution
Company Limited and others

Mr. Amar Nath Sen,
Mr. Malay Dhar,
Mr. P.K. Ghosh,
Mr. Shouvik Naskar, Advocates
... for the appellant

Mr. Mihir Kundu, Advocate
... for WBSEDCL

Mr. Anindya Lahiri,
Ms. Pranati Das, Advocates
... for the writ petitioner/
respondent No.5

By this intra court appeal, respondent No.4 in the writ petition has challenged the order of learned Single Judge dated 14.12.2022 passed in WPA 27038 of 2022 whereby learned Single Judge has directed the respondent, West Bengal State Electricity Distribution Company Limited, to immediately process the application of the writ petitioner for enhancement of load factor with regard to the existing electricity connection and also observed that in case of any obstruction by the appellant herein (respondent No.4 in the writ petition), it will be open to West Bengal State Electricity Distribution Company officials to approach respondent No.5 in the writ petition i.e. police authority.

The writ petitioner had approached the writ Court with the plea that the writ petitioner is a tenant of the

appellant by virtue of the agreement dated 02.06.2012 and was having a separate meter which was initially dismantled at the instance of the appellant but later restored. Further plea was raised that on account of increase of the requirement of load, the writ petitioner had applied for enhancement of load by replacing the single phase meter and the same was accepted but at the time of access of the premises by West Bengal State Electricity Distribution Company authorities, the appellant had obstructed the same.

Hence, in the writ petition, a prayer was made to issue a direction to the respondent Company to give effect to the load enhancement of the meter by taking appropriate steps.

Learned Single Judge after due consideration of the matter has granted the prayer.

Submission of learned counsel for appellant is that the appellant was not served in the writ petition, therefore the writ petition is required to be remanded back. He further submits that there are three separate meters. One meter in the name of the appellant, second meter in the name of the appellant's son Rajesh and third meter in the name of the writ petitioner and the writ petitioner was using his own meter and also meter of Rajesh which has pending dues. Therefore, before enhancement of the load in the writ petitioner's connection, the writ petitioner should be required to clear the pending dues of Rajesh.

Learned counsel for writ petitioner has submitted that the appellant was served as she had refused to accept notice and learned Single Judge has duly considered the other argument also.

Learned counsel for West Bengal State Electricity Distribution Company Limited has submitted that the order of learned Single Judge has been given effect to and the dues are pending as against the electricity connection of Rajesh and that line has been disconnected on 23.11.2022.

We have heard learned counsel for the parties and perused the record.

So far as the first ground raised by learned counsel for the appellant that learned Single Judge has passed the order without effecting service on the appellant, a copy of affidavit of service filed before learned Single Judge has been placed on record during the course of argument by learned counsel for writ petitioner, which indicates the notice of the writ petitioner was sent by speed post to the appellant and she had refused service, hence it was returned. Thus, at this stage it is open to the appellant to contend that the order has been passed without serving notice upon the appellant.

So far as the second issue is concerned, Rajesh has not approached this Court. It is not open to the appellant to contend that the dues against the electricity connection of Rajesh should be cleared by the writ petitioner.

That apart, it has also been pointed out that the direction given by learned Single Judge has already been given effect to and the load of the appellant's connection has been enhanced.

Learned Single Judge in the impugned order has made it clear that the order will not preclude West Bengal State Electricity Distribution Company Limited from claiming its outstanding dues by taking appropriate steps for recovery of such outstanding dues in respect of defaulting meter.

It is for the West Bengal State Electricity Distribution Company Limited to take appropriate steps to recover the due amount in respect of the defaulting meter and at that stage to decide from whom the amount should be recovered.

In the aforesaid circumstances, we find that the order of learned Single Judge does not suffer from any error and no case for interference in the appeal is made out which is accordingly dismissed.

[Prakash Shrivastava, C.J.]

[Rajarshi Bharadwaj, J.]