

D/L. 5.
February 24, 2023.
MNS.

WPA No. 2007 of 2023

Sudarsan Maithy
Vs.
The West Bengal State Electricity
Distribution Company Limited and others

Mr. Ajoy Debnath,
Mr. Asit Kumar De

... for the petitioner.

Mr. Srijan Nayak,
Mrs. Rituparna Maitra

...for the WBSEDCL.

Learned counsel for the petitioner submits that the petitioner was given a hearing pursuant to a previous direction of this Court and ultimately a final order of assessment was passed by the West Bengal State Electricity Distribution Company Limited (WBSEDCL).

However, it is contended that, contrary to the statement of the petitioner in his written objection that the petitioner was not guilty of the allegations made against the petitioner, it was recorded in the final order of assessment dated January 9, 2023 that the petitioner had stated that he had committed illegal work of theft of electricity. It is further recorded that the petitioner

appealed before the authority to consider the pilferage bill sympathetically.

The veracity of such recordings are squarely denied by the petitioner.

Learned counsel appearing for the petitioner further argues that the Assessing Officer made the final order of assessment. However, he was the same Officer who had lodged the FIR against the petitioner. Hence, it ought to be deemed that the veracity of the recordings in the final order of assessment, which is challenged in the present writ petition, is suspect.

Learned counsel for the WBSEDCL denies the allegation made by the petitioner and places reliance on the final order of assessment. It is seen that the present writ petition is the second round of litigation by the petitioner. Initially, the petitioner had taken an objection that without giving notice to the petitioner, final order of assessment had been passed.

Although the WBSEDCL had denied such contention, no proof could be furnished by the WBSEDCL regarding service of notice on the petitioner, for which the matter was remanded

and the final assessment directed to be made afresh.

However, despite the petitioner's purported representation, annexed at page 51 of the present writ petition, indicating that he did not admit his guilt, it is reflected from the order dated January 9, 2023 that the petitioner did not personally appear, but was represented by someone.

As such, it is not credible that the petitioner had direct knowledge of what the representative contended before the Assessing Officer.

It is seen from the affidavit filed in support of the writ petition that the statements made in paragraph – 1 onwards have been affirmed to be true to the knowledge of the petitioner. However, it defies logic as to how, without being present at the hearing, the petitioner could have knowledge of what transpired there.

In normal circumstances, the presumption is that judicial and official acts are done properly unless the same is rebutted by cogent evidence. In the present case, apart from bald denial, nothing has been established by the petitioner. Furthermore, although learned counsel for the petitioner repeatedly insists on his purported

written objection annexed at page 51 of the writ petition, there is nothing to indicate that the same was ever served on the WBSEDCL or received by such authorities. Hence, there is no reason why the said objection/representation should not be utterly disbelieved.

It may very well be that the said written objection has been manufactured for the purpose of the writ petition. However, without any specific proof of the same being manufactured, this Court is not willing to render any observations in that regard.

Be that as it may, in view of the above discussions, there is no scope of interference in the present writ petition.

It is palpable that the petitioner has sought to abuse the process of law by repeatedly coming to court on one pretext or the other to delay the payment of the amount assessed on the ground of pilferage.

It is found from the affidavit of the petitioner that the petitioner is by occupation a businessman and not a rustic villager. As such, there is no reason why no cost should be imposed on the petitioner for such recalcitrant conduct.

Hence, WPA No. 2007 of 2023 is dismissed with costs of Rs. 5,000/- (Rupees five thousand) only, payable by the petitioner to the respondent-authorities within a week from date.

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.)