

AD-10  
Ct No.09  
16.02.2023  
TN

WPA No. 2674 of 2023

Sri Bidhan Chandra Samanta  
Vs.  
State of West Bengal and others

Mr. Amlan Jyoti Sengupta,  
Mr. Soumen Mandal

.... for the petitioner

Mr. S.S. Koley

.... for the WBSEDCL

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

Learned counsel for the petitioner contends that  
the petitioner, along with his family, entered the  
premises-in-question only on May 18, 2022.

On the next date, that is, on May 19, 2022, an  
inspection was held by the Distribution Licensee, that  
is, the West Bengal State Electricity Distribution  
Company Limited (WBSEDCL). No irregularity or  
unauthorized use was found on that date.

However, only two days thereafter on May 21,  
2022, a notice was served on the petitioner under  
Section 135 of the Electricity Act, 2003 (for short “the  
2003 Act”) alleging that the petitioner was guilty of  
unauthorized use of electricity from the said meter.

It is contended that thereafter the petitioner challenged the provisional order of assessment and ultimately a final order of assessment was passed. Against the same, pursuant to leave granted by the writ court, the petitioner approached the appellate authority under Section 127 of the 2003 Act. However, the appellate authority, by the impugned order, decided the issue in a cryptic manner by reducing the hours of alleged use of electricity from 19 to 15 only, which was patently arbitrary on several scores.

It is submitted that since the petitioner was residing at the premises only for two days prior to the alleged incident and since on May 19, 2022 an inspection was held, that is, only two days before the alleged date of pilferage, when no unauthorised use was found, the statutory presumption of the last one year being the basis of calculation could not have been resorted to by the WBSEDCL in the present case.

Learned counsel appearing for the WBSEDCL controverts the allegation and submits that the calculation was made as per law and the appellate authority, in its discretion, reduced the hours for the purpose of calculation of dues on the prayer of the petitioner.

That apart, by placing reliance on the annexure at page-25 Annexure – P4 of the writ petition, it is

submitted that the petitioner admittedly sought a reduction in the penalty, thereby virtually admitting his guilt.

Heard learned counsel for the parties.

It is an admitted position that the electricity connection was existing at the premises, where the petitioner with his family allegedly entered on May 18, 2022, previously.

As such, the allegation that the petitioner only entered on May 18, 2022 could not itself be a factor in ascertaining the period during which the alleged pilferage was going on.

The statutory provisions indicate that the calculation of dues has to be made on the basis of the past year prior to the discovery of the unauthorized use/pilferage. The said method has, in fact, been relied upon by the respondent-authorities in the present case.

The contention of the petitioner that on May 19, 2022 itself, that is, two days prior to the allegation of pilferage, an inspection had been held and no unauthorized use was found, cannot be accepted, since there is nothing on record to indicate that apart from a notice of inspection being served on May 19, 2022, any inspection was actually held at the premises at the behest of the WBSEDCL on such date.

Moreover, the notice annexed to the writ petition does not indicate that the inspection was actually held for the purpose of ascertaining as to whether there was any unauthorized use of electricity. In the absence of any such proof, it has to be construed that the alleged pilferage was detected only on the date of inspection, that is, on May 21, 2022.

Hence, since the petitioner has already taken efforts to move up to the appellate authority under Section 127 of the 2003 Act, the scrutiny of the final order of assessment is now a closed chapter and cannot be reopened by this writ court.

Hence, on the grounds as indicated above, I do not find it necessary to interfere with the impugned order of the appellate authority. As such, there is no scope of interference in the present writ petition.

Accordingly, WPA No. 2674 of 2023 is dismissed without any 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.)