

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 3695 of 2023

Umakanta Jana
Vs.
West Bengal State Electricity
Distribution Company Ltd. & Ors.

Mr. Ramashis Mukherjee
... for the petitioner

Mr. Sujit Sankar Koley
...for the WBSEDCL

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

Learned counsel appearing for the petitioner contends that although the petitioner is not in occupation of a nearby temple, which originally belonged to the petitioner, the electricity meter standing there is still in the name of the petitioner.

Taking advantage of such situation, the West Bengal State Electricity Distribution Company Limited (WBSEDCL) has made allegations of pilferage against the petitioner for alleged unauthorized use of electricity with regard to the connection going to the said temple.

Learned counsel appearing for the WBSEDCL points out that the connection is still in the name of the petitioner and, as such, the petitioner cannot avoid liability in the matter. Moreover, it is submitted that the final order of assessment, which has been challenged herein, was passed long back

and, as such, an appeal, which is provided under Section 127 of the Electricity Act, 2003, against such assessment is also time-barred by now.

Learned counsel appearing for the petitioner, in reply, submits that the petitioner has no nexus with the electricity connection-in-question at the present juncture. That apart, a copy of the assessment order reached the petitioner much later, due to which the petitioner could not prefer the challenge earlier.

Needless to say, such contentions are denied by learned counsel for the WBSEDCL.

At the outset, it transpires that the present dispute arises out of a challenge to a final order of assessment raised by the WBSEDCL under Section 126 of the Electricity Act, 2003, which is appellable before the appropriate forum under Section 127 of the said Act.

Since an equally efficacious alternative remedy is available, it would be premature for this Court to interfere in the matter by usurping the jurisdiction of appellate authority at this stage.

Moreover, since the question of limitation has been raised and the same is arguable, for the ends of justice, it would be proper if the appellate authority decides such issue.

Accordingly, W.P.A. No. 3695 of 2023 is disposed of by granting liberty to the petitioner to prefer a challenge against the final order of assessment under Section 127 of the

Electricity Act, 2003 before the appropriate appellate forum at the earliest.

If so approached, the said authority shall decide the issue involved in accordance with law and subject to the law of limitation upon deciding the question of limitation first and upon giving an opportunity of hearing to all concerned.

It is expected that such appeal shall be disposed of by the appellate authority as expeditiously as possible, preferably within two months from the date the same being preferred by the petitioner.

It is further clarified that the merits of the respective contentions of the parties have not been gone into by this Court and it will be open to the appellate authority to decide on all issues in accordance with law independently.

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 of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)