

D/L. 9.
February 24, 2023.
MNS.

WPA No. 3837 of 2023

Chinmoy Mondal
Vs.
West Bengal State Electricity Distribution
Company Limited and others

Mr. Sagar Banodhopadhyay,
Ms. Soma Kar Ghosh,
Mr. Arabinda Pathak

... for the petitioner.

Mr. Srijan Nayak,
Mrs. Rituparna Maitra

...for the WBSEDCL.

Learned counsel for the petitioner, in his usual fairness, points out that a challenge had been taken out by the petitioner to the liability of the petitioner to pay Late Payment Surcharge (LPSC) after 180 days from disconnection due to termination of contract under the relevant statutory provision. Clause 4.6.4 of Regulation No. 55 dated August 7, 2013 of the West Bengal Electricity Regulatory Commission (WBERC) stipulates that, notwithstanding anything contained contrary elsewhere in these Regulations, where deemed termination of agreement has taken place, then on the basis of application of any consumer, new service

connection can only be provided in the same premises if the outstanding dues against the deemed terminated consumer is cleared along with the late payment surcharge.

In view of such fair submission, the said challenge loses relevance. However, learned counsel for the petitioner reiterates that the petitioner is willing to clear all outstanding dues as claimed by the WBSEDCL, but at least some reasonable installments may be given to the petitioner to clear such outstanding dues in view of the present unstable condition of the petitioner's business.

Learned counsel appearing for the WBSEDCL submits that Clause 4.6.4 is clearly shows that the reconnection is to be given only if the outstanding dues against the deemed terminated consumer is cleared along with the late payment surcharge.

However, such a strict interpretation of Clause 4.6.4 would signify that in no circumstances, the WBSEDCL itself or any other Licensee shall have the authority or discretion to allow installments to recover the outstanding dues. Since the WBSEDCL and other Licensees discharge the work having of a public nature, it is

expected that such discretion will be available to the Licensees, since one of the primary purposes of exacting LPSC and outstanding dues is to recover the otherwise bad debt of the licensee.

It is found from the records that although a previous direction was given for the WBSEDCL to consider such prayer of the petitioner for installments, vide communication dated February 8, 2023, made thereafter, there was no effective consideration of the request for installments, but the WBSEDCL merely reiterated its stand that the outstanding dues were to be cleared along with the LPSC for the connection to be given.

In view of the above discussions, WPA No. 3837 of 2023 is disposed of by directing the WBSEDCL to consider the representation of the petitioner seeking some monthly installments for clearing all the outstanding dues along with LPSC. Such consideration shall be given and a reply thereto shall be communicated to the petitioner as expeditiously as possible, preferably within a fortnight from date, to enable the petitioner to commence the payment of the outstanding dues.

It is, however, made clear that such consideration, if given, shall be only on the ground of the present unhappy financial condition of the business of the petitioner due to absence of electricity and shall not create a precedent in any subsequent matter.

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.)