

AD-09
Ct No.09
17.03.2023
TN

WPA No. 4507 of 2023

Golak Sarkar and others
Vs.
West Bengal State Electricity Distribution Company
Limited and others

Mr. Kumar Jyoti Tewari,
Mr. Tarunjyoti Tewari,
Mr. Anirudha Tewari,
Mr. Amrit Sinha

.... for the petitioners

Dr. Madhusudan Saha Roy

.... for the WBSEDCL

Learned counsel for the petitioners contends that the petitioners are agriculturists and are saddled with billing dispute due to the claims made by the West Bengal State Electricity Distribution Company Limited (WBSEDCL). It is submitted that the claims are disputed. On several occasions, the petitioners were asked to make one-time payments under a one-time waiver scheme.

By placing reliance on several electricity bills and other documents annexed to the writ petition, learned counsel submits that the WBSEDCL has been raising several claims regarding the alleged arrears of amount, although the petitioners have been paying electricity charges regularly.

Further, learned counsel for the petitioners places reliance on a judgment of the Supreme Court reported at (2020) 4 SCC 650 (*Assistant Engineer (D1), Ajmer Vidyut Vitran Nigam Limited and another vs. Rahamatullah Khan alias Rahamjulla*). By placing particular reliance on paragraph no.8 thereof, it is argued that Section 56(2) of the Electricity Act, 2003 does not preclude the licensee company from raising a supplementary demand after the expiry of the limitation period of two years. It only restricts the right of the licensee to disconnect electricity supply due to non-payment of dues after the period of limitation of two years has expired, but does not restrict other modes of recovery which may be initiated by the licensee company for recovery of a supplementary demand.

Learned counsel appearing for the WBSEDCL controverts the claims of the petitioners and submits that the present claims were made in due time and shown continuously to be unpaid by the petitioners. As such, the operation of Section 56(2) of the Electricity Act, 2003 (for short “the 2003 Act”) is not attracted in the present case at all.

Upon hearing learned counsel for the parties, it is crystal clear from the cited judgment of the

Supreme Court that the same was rendered in a completely different perspective than the present case.

Rather, paragraph no.8 of the said judgment goes in favour of the licensee and not the consumer. Section 56(2) of the 2003 Act provides a bar to claiming dues after the expiry of two years from the date when the amount became first due.

However, the present case does not fall under the said category, since the alleged amounts fell due on the basis of current bills, which were all along shown in the electricity bills of the consumer.

In fact, what the Supreme Court seeks to distinguish in paragraph no.8 of the judgment is between other modes of recovery and the restriction of the right of the licensee to disconnect electricity supply only in cases where the bar of two years as stipulated in Section 56(2) applies.

The provision was rather liberally viewed by the Supreme Court to the extent that the licensee company, even in such cases, is not precluded from raising a supplementary demand after the expiry of the limitation period and to resort to other modes of recovery. Thus, the said judgment does not come to the aid of the petitioners in any manner whatsoever. Even otherwise, the Regulations of the WBERC provide that the Grievance Redressal Officer (GRO)

concerned is the appropriate authority for deciding billing disputes.

Since the petitioners have raised billing disputes in the present writ petition, it is more prudent to permit the GRO to adjudicate the same instead of usurping the forum of the said authority by this court.

Accordingly, WPA No. 4507 of 2023 is dismissed without any order as to costs.

However, it will be open to the petitioners to approach the concerned GRO with the billing disputes as sought to be raised in the present writ petition. If such an approach is made, the GRO shall decide the issue in accordance with law upon hearing all concerned, including the petitioners and the licensee, as expeditiously as possible, positively within eight weeks from the date of such reference being made.

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.)