

ML-01
Ct No.09
02.01.2023
TN

WPA No. 3652 of 2020

Abul Hassan
Vs.
The West Bengal State Electricity Distribution
Company Limited and others

Mr. Md. Rafiqul Islam

.... for the petitioner

Mr. S.S. Koley

....for the WBSEDCL

Learned counsel for the petitioner submits that the petitioner is aggrieved by a final assessment bill drawn up against the petitioner under Section 126 of the Electricity Act, 2003 (hereinafter referred to as “the 2003 Act”).

Since it is an appellable order, learned counsel, in his usual fairness, submits that the petitioner is agreeable to prefer an appeal against the impugned final assessment bill.

Learned counsel appearing for the Distribution Licensee points out that a Division Bench of this court, while hearing an application of the petitioner for anticipatory bail, directed on September 28, 2018 that subject to the petitioner depositing Rs.12 lakh before the matter appeared next, the matter might be

considered favourably; or else, the law would take its own course.

The said Division Bench order in C.R.M. No. 7730 of 2018 was passed in connection with a proceeding for anticipatory bail, which has no direct nexus with the final assessment under Section 126 of the 2003 Act. Secondly, it was clarified in the said order itself that the matter before their Lordships would be considered favourably subject to the petitioner depositing an amount as directed in the said order. However, it was also indicated that the law would otherwise take its own course.

A copy of the order handed over in court today be kept on record.

Since the petitioner has the remedy of an appeal under Section 127 of the 2003 Act in law, there cannot be any justification or impediment, on the ground of the observations made in the Division Bench order, to preclude the petitioner from exercising such right.

Accordingly, WPA No. 3652 of 2020 is disposed of by granting liberty to the petitioner to prefer an appeal under Section 127 of the 2003 Act against the final assessment order challenged in this writ petition. If so filed, the appellate authority shall decide the same in accordance with law and subject to the law of

limitation, on its own merits, without being influenced by any of the observations made by this court either in the present writ petition or in connection with C.R.M. No. 7730 of 2018.

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.)