

ML 17
16.03.2023
mb

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 5130 of 2023

Prosanta Sadhukhan
Vs.
CESC Limited & Ors.

Mr. Bidyut Kumar Halder,
Mr. Indranil Halder,
Ms. Srabanti Das,
Ms. Neha Singh
...for the petitioner

Mr. Suman Ghosh
...for the CESC Limited

It is submitted by learned counsel for the petitioner that vide order dated November 17, 2022 passed in W.P.A. No. 24746 of 2022, this Court disposed of the writ petition by directing the CESC Limited to refund the amount of Rs.86,170/-, as appearing in the bill annexed at page 17 (Annexure P/5) of the said writ petition.

Although such amount has since been refunded by the CESC Limited, learned counsel appearing for the petitioner contends that the petitioner is entitled to interest thereon. It is sought to be argued that since the CESC Limited and other distribution licensees levy surcharge in the event of delayed payment, the interest

of justice demands that CESC Limited should also pay such interest to the petitioner.

Learned counsel appearing for the CESC Limited, by placing reliance on Clause 7 of the Regulation No. 53 of the WBERC dated April 02, 2013, submits that in case of refund of service connection charge if the applicant declines such supply or withdraws his application, the Distribution Licensee is entitled to deduct certain sums. However, in the present case, the entire amount has been refunded to the petitioner without such deduction.

Upon perusal of the order dated November 17, 2022, it is clear that there was no prayer or adjudication on the question of interest while passing the said order. Such point was never raised on behalf of the petitioner. Moreover, such order has attained finality in view of none of the parties having challenged the same. As such, in the garb of the present writ petition, the said order cannot be recalled, particularly in view of the fact that the entire amount has since been refunded in compliance of the order of this Court by the CESC Limited.

Hence, there is no scope of interference in the present writ petition.

Accordingly, W.P.A. No. 5130 of 2023 is dismissed without, however, any 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.)