

15<sup>th</sup> May,  
2023  
(AK)  
17-18

**W.P.A 11480 of 2023**  
**With**  
**W.P.A 11581 of 2023**

Triveni Devi Bhalotia College  
Vs.  
West Bengal State Electricity Distribution Company  
Limited and others

Mr. Sharanya Chatterjee  
Mr. Nepesh Majhi

...for the petitioner.

Mr. Debjit Mukherjee

...for the WBSEDCL.

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

In WPA 11480 of 2023, the writ petitioner has  
challenged an order passed by the concerned RGRO,  
whereby the RGRO decided the dispute raised by the  
petitioner without considering the applicability of Section  
56(2) of the Electricity Act, 2003.

It is submitted that such act tantamounts to  
contravention of the order of this court remanding the  
matter to the RGRO.

WPA 11581 of 2023 has been filed challenging a  
subsequent demand of the WBSEDCL for payment of the  
entire alleged outstanding dues with regard to the  
consumer number, which is the subject matter in WPA  
11480 of 2023, for the purpose of giving a new electricity

connection to the petitioner for construction of an additional wing of the college.

Upon hearing learned counsel for the parties and a perusal of the order dated November 21, 2022 passed in WPA 23646 of 2022, it is clear that this court had, inter alia, observed that it was doubtful whether the petitioner's claim was at all maintainable in the year 2017 in view of the specific bar stipulated in Section 56(2) of the 2003 Act.

It was further observed that although the WBSEDCL might have some justification in arguing that the Supreme Court has consistently taken the view that *bona fide* errors can crop up for the licensee to claim an amount even after the time stipulated in Section 56(2), in the present case it is doubtful even as to whether the error admitted on the part of the Distribution Licensee was *bona fide* in the sense that the meter readings were all along available to the Distribution Licensee, but there was apparent negligence on the part of the licensee in taking the meter readings and/or careful supervision of the readings by superior officials.

Heard learned counsel for the WBSEDCL as well.

A perusal of the impugned order of the RGRO indicates that the same was passed in contravention of the order of this court dated November 21, 2022 as indicated above, inasmuch as the RGRO did not consider the questions which were directed to be considered in terms of the order dated November 21, 2022.

The RGRO did not consider the question of Section 56(2) of the 2003 Act and/or whether the mistake committed by the Distribution Licensee in making the calculations was *bona fide*.

Hence, WPA 11480 of 2023 is disposed of by setting aside the impugned order of the RGRO and remanding the matter to the concerned RGRO, directing the said RGRO to re-hear the parties and decide the dispute afresh in terms of and in consonance with the order dated November 21, 2022 passed in WPA 23646 of 2022, in the light of the observations made herein above.

Such re-adjudication shall be conducted upon giving adequate opportunity of hearing to all concerned as expeditiously as possible, positively within a month from this date.

Insofar as WPA 11581 of 2023 is concerned, the same is consequential to the decision of the RGRO in WPA 11480 of 2023, as the WBSEDCL is otherwise justified in terms of the existing Regulations to claim the outstanding amounts, if any, in respect of the same premises, if a consumer applies for a fresh electricity connection.

Accordingly, WPA 11581 of 2023 is disposed of with the observation that the WBSEDCL shall re-visit the claim for clearance of all outstanding dues, if any, by the petitioner for getting a new electricity connection, in consonance with the outcome of the decision of the RGRO

and/or the outcome of any challenge, if preferred against such decision by any of the parties.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

**(Sabyasachi Bhattacharyya, J.)**