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17.05.2023
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W.P.A. No. 11708 of 2023

Abdul Kasem
Vs.
West Bengal State Electricity
Distribution Company Limited & Ors.

Mr. Rajdeep Mantha,
Mr. Anirban Sarkar
...for the petitioner
Ms. Dona Saha
...for the WBSEDCL

An adjournment is sought by the West Bengal State Electricity Distribution Company Limited (WBSEDCL). However, since proper service has been effected, which is clear from the affidavit of service filed in court today and kept on record, and in view of the innocuous nature of the order proposed to be passed, such prayer for adjournment is refused.

The challenge of the writ petitioner is against two notices, respectively dated March 21, 2023 and April 24, 2023. By virtue of the first notice, the petitioner was directed by the WBSEDCL to submit relevant documents of Dag No. 6838, apparently on the basis of an objection submitted by one Abdul Kalam.

Upon a reply thereto being given by the petitioner through his learned advocate, a further notice dated April 24, 2023 was given, *inter alia* taking offence to the petitioner's reply and reiterating the request to the petitioner to submit proper answer to the query as

posed in the notice dated March 21, 2023 and documents.

Learned counsel appearing for the petitioner submits that the petitioner is in lawful occupation of the Dag number-in-question and is ready to satisfy the authorities, if need be, on such score. However, in the absence of any complaint having been annexed with the notices and without having any knowledge about the nature of the complaint, the petitioner is not in a position to give appropriate reply to such query. That apart, it is argued that the notice dated March 21, 2023 was given under the provision of Section 136(1)(e) of the Electricity Act, 2003, which is not existent in the statute.

It transpires that the WBSDECL wrongly quoted the notice as one under Section 136, whereas the same should have been under Section 135 of the Electricity Act, 2003. However, no amount of conjecture can improve the said notice in view of the same having been issued under a palpably wrong section. That apart, since no complaint/written objection was annexed along with the same, it was beyond the scope of the petitioner to give a proper reply on such query and no liability could be said to have been cast on the petitioner to furnish documents pursuant thereto.

In such view of the matter, W.P.A. No. 11708 of 2023 is disposed of by setting aside the impugned

notices dated March 21, 2023 and April 24, 2023 on the grounds as indicated above.

However, nothing in this order shall preclude the WBSEDCL from issuing further notice under the appropriate provision of law to the petitioner, if so required, annexing therewith a copy of the written objection, if any, filed by the complainant Abdul Kalam in order to enable the petitioner to give a proper reply and to produce appropriate documents.

If such notice is issued, the WBSEDCL shall disclose therein clearly the date and time fixed for the petitioner to appear and produce the documents before the authorities.

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 of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)