

17th May,
2023
(AK)
14

W.P.A 11797 of 2023

Sairun Nisa @ Sayrun Nesa
Vs.
The CESC Limited and others

Mr. Pratha Pratim
Mr. Randhir Singh
Mr. Sunny Nandy
Ms. Riya Das

...for the petitioner.

Mr. Om Narayan Rai
Ms. Sumouli Sarkar

...for the CESC Limited.

Mr. Santanu Kumar Mitra
Mr. Ganga Prasad Mukherjee

...for the State.

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

The report filed by the state be also kept on record.

Learned counsel for the petitioner, by placing reliance in particular on paragraphs 5 and 6 of the writ petition, submits that one of the officers of the CESC Limited, named in paragraph 6, had forcibly entered into the property of the petitioner on April 24, 2023 at about 12.30 p.m. along with a few others claiming to be CESC officers.

Thereafter they broke open the CESC seal and meter.

It is alleged further that after breaking open such seal, the said person alleged that there is an

unauthorized use of electricity by the petitioner and that the petitioner had to pay “*a ransom*” of Rs.30,000/- “*in order to keep the electricity meter ongoing for now*”. Several other allegations have also been made in the subsequent paragraphs.

The crux of the dispute is a provisional order of assessment raised by the CESC Limited on the allegation of unauthorized use of electricity against the petitioner.

Such provisional order is annexed at page-32 of the present writ petition.

With leave of court, the petitioner also files a supplementary affidavit and hands over a copy thereof to the learned counsel for the CESC Limited here and now, with which has been annexed a final order of assessment passed the day after the writ petition was affirmed.

Such final order of assessment dated May 11, 2023 reiterates the provisional order of assessment.

By challenging such assessment orders, it is argued by the petitioner that the petitioner specifically lodged a complaint on the same date, that is, on April 24, 2023 with the police authorities. However, no steps were taken on such complaint by the police.

It is argued that the petitioner is unequally placed vis-à-vis the CESC Limited, which is a large concern, and as such the petitioner’s complaint has been ignored by the authorities. It is argued that neither the provisional order nor the final order of assessment is justified in law.

In fact, while passing the final order of assessment, only cursory hearing was given to the petitioner but the allegations made by the petitioner with regard to the CESC official having broken the seal have not been adverted to at all by the assessing authority.

Learned counsel appearing for the CESC Limited controverts the allegations made in the writ petition and submits that the allegations made in paragraph nos.5 and 6 of the writ petition are not credible *ex facie*.

It is contended that there is no rhyme or reason disclosed as to why the official of the CESC Limited allegedly would ask for a ransom from the petitioner.

It is further argued that merely to obviate the disconnection of electricity, which could not be effected due to a riot-like situation at the locale when the CESC official attempted to do so, the petitioner has taken out the instant writ petition.

A bare perusal of paragraph nos. 5 and 6 indicate that even as per the allegation of the petitioner, a particular officer of the CESC Limited along with others had opened the CESC seal and only after discovering an unauthorized use of electricity thereafter, allegedly took an amount of money from the petitioner.

Quoting paragraph no.6, since learned counsel for the petitioner disputes such recording in the order, “*Your petitioner states that the said officer Subhasis Ghosh and others then opened the seal and alleged that there is an unauthorized use of electricity by the petitioner and the*

petitioner had to pay a ransom of Rs.30,000/- in order to keep the electricity meter ongoing for now. It is stated that the ladies present at the premises raised an objections against the atrocities of the CESC officer, which turned into altercation and thereafter the level of atrocities went further violent against the women of the house.”

It is clear from the nature of the while allegations that the same does not have any credible basis, particularly since no motive whatsoever of the officer of the CESC Limited has been disclosed in the said paragraph for him to break open the seal of the petitioner all on a sudden without any rhyme or reason.

The allegation of the official demanding money from the petitioner, even as per the averments of the writ petition, came in chronology after the breaking open of the seal, without giving any explanation as to why, in the first place, such seal was broken open by the official at all.

Insofar as the purported motive of the official for breaking open the seal is concerned, nothing has been alleged in the writ petition itself.

In fact, it transpires from paragraph no. 5 of the same that the said official of the CESC Limited along with other personnel of the CESC went and inspected the meter and thereafter might have discovered unauthorized use of electricity, on which the petitioner lodged a complaint on the same date with the police authorities,

possibly to by-pass the consequential disconnection of electricity.

In fact, on the same day, the CESC officials also lodged a complaint with the police authorities indicating that they were resisted by the local people from disconnecting the electricity supply even after finding that the meter-in-question was found tampered with.

In fact, it is rightly pointed out by learned counsel for the CESC Limited that the allegation of the quantum of Rs.30,000/- is not mentioned in the complaint of the petitioner.

Rather, from the complaint of the petitioner, it is evident that the complainant, who claims to be the grandson of the petitioner, had his apprehension that the CESC personnel were hatching up a conspiracy to disconnect the meter of the petitioner and would initiate false cases with the view to extort huge penalty and other levies for the wrongful gain of the CESC limited.

Such allegation, on the face of it, is merely to preempt the complaint being lodged by the CESC personnel and to avoid the disconnection of electricity which was vehemently resisted by the people in the locality.

As such, the attempt of the petitioner to bypass the law cannot be encouraged by way of entertaining the present writ petition.

That apart, a remedy is available to the petitioner in law in the form of Section 127 of the Electricity Act, 2003, which enables the aggrieved person to prefer an appeal against the final order of assessment before the appellate authority.

If the petitioner is aggrieved, it is open to the petitioner to prefer such challenge before the appellate authority which, if preferred, has to be decided in accordance with law by the appellate authority.

However, there is no scope of entertaining the present writ petition, thereby prejudging the criminal proceedings initiated on the complaints of the petitioner and the CESC Limited respectively.

Hence, WPA 11797 of 2023 is disposed of without interfering with the final order of assessment, by granting liberty to the petitioner to challenge the same before the appropriate appellate authority in accordance with law.

It is, however, made clear that this court has not entered into the merits of the criminal allegations made by the parties against each other and it will be open to the appropriate competent forum(s) to decide such issues in accordance with law without being prejudiced or influenced in any manner by any of the observations made herein.

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.)