

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 10673 of 2018

Sunil Kumar Mishra
Vs.
West Bengal State Electricity
Distribution Company Limited & Ors.

Mr. Pradeep Kumar
...for the petitioner

Mr. Sujit Sankar Koley
...for the WBSEDCL

Learned counsel appearing for the petitioner contends that the order of final assessment was patently illegal.

At the outset, learned counsel appearing for the WBSEDCL (West Bengal State Electricity Distribution Company Limited) contends that an appeal was maintainable at the behest of the petitioner. However, the limitation, that is, thirty days, for filing such appeal is long over.

Upon perusal of the writ petition, it is evident that the factual aspects of the final order of assessment are under challenge in the present writ petition.

However, since the petitioner has an equally efficacious alternative remedy before the appellate forum, which is not chosen by the petitioner, apparently to avoid the statutory fifty per cent deposit,

which is a pre-requisite for filing an appeal, it is beyond the scope of the writ court to go into such disputed questions of fact.

However, keeping in view that the writ petition itself was filed on June 28, 2018, that is, about one month after the expiry of limitation (final order of assessment date was April 21, 2018), for the ends of justice, the petitioner ought to be granted an opportunity to canvas his contentions before the appellate forum in accordance with law.

Hence, W.P.A. No. 10673 of 2018 and IA No. C.A.N. 1 2019 (old No. C.A.N. 4303 of 2019) are disposed of by granting liberty to the petitioner to approach the appellate authority against the final order of assessment made by the WBSEDCL.

If so approached within a fortnight from date, subject to deposit of fifty per cent as contemplated in Section 127 of the Electricity Act, 2003, the appellate authority shall entertain the appeal and decide the same on merit, in accordance with law, upon giving an opportunity of hearing to all concerned.

The prayer for restoration of electricity connection is refused at this stage without prejudice to the rights of the petitioner to renew such prayer before the appellate forum.

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.)