

AD-28
Ct No.09
28.07.2023
TN

WPA No. 13003 of 2023

Pradip Kumar Modak
Vs.
The West Bengal State Electricity Distribution
Company Ltd. and others

Mr. Amitabha Ghosh,
Ms. Nabanita Chatterjee

.... for the petitioner

Mr. Sujit Sankar Koley

.... for the WBSEDCL

Learned counsel for the petitioner argues that, despite having pointed out to the West Bengal State Electricity Distribution Company Limited (WBSEDCL) as long back as on January 04, 2019, and several times thereafter, that the electricity meter used by the petitioner was defective, and despite the WBSEDCL itself having expressed the same apprehension, the said meter was never replaced. The WBSEDCL went on charging exorbitant amounts on the basis of the defective meter and ultimately the petitioner's electricity supply was disconnected for non-payment.

The petitioner has also approached for resolution of the dispute, the next date of which was fixed on November 28, 2022; but nothing has yet happened with regard to such resolution.

Learned counsel for the WBSEDCL submits that there was no inspection but merely an observation, that the meter seems to be defective, in a particular bill raised by the WBSEDCL. That apart, the petitioner, it is submitted, has regularly been consuming electricity, for which he is liable to pay electricity charges.

Insofar as the resolution of the billing dispute is concerned, the petitioner never approached the Grievance Redressal Officer (GRO). The document annexed at page-47 of the writ petition is a communication made by the Assistant Director of the Consumer Affairs & Fair Business Practices, an authority distinct and different from the WBSEDCL, which was approached by the petitioner.

Upon hearing learned counsel for the parties, what is evident is that the petitioner raised an issue of the meter being defective as long back as on January 04, 2019 and several times thereafter. In a particular bill, dated November 16, 2019, annexed at page-29 of the writ petition, the WBSEDCL itself indicated, in a note at the bottom of the bill, that the meter-in-question “seemed defective” and the reading was on “estimated basis”.

It is unfortunate that in spite of detecting such defect as long back as on November 16, 2019, the said

meter has not been replaced by the WBSEDCL till date, for reasons unknown to all.

Hence, the WBSEDCL cannot avoid liability for the defective meter, merely by going on raising average bills on the basis of estimated charges, despite having not done its duty by replacing the defective meter within the stipulated period under the Regulations.

Taking into account the fact that the petitioner did not approach the GRO for resolution regarding the bills, on balance with the inaction of the WBSEDCL for not replacing the meter, WPA No. 13003 of 2023 is disposed of by directing the WBSEDCL to replace the defective meter of the petitioner immediately, positively within one week from date.

The petitioner, thereafter, shall go on paying current charges for the electricity consumed by the petitioner. However, the electricity connection of the petitioner shall be restored, also within a week from date, upon payment of only the reconnection charges, without insisting upon prior payment of the disputed amount of arrears which has been claimed by the WBSEDCL for the relevant period.

The petitioner shall, by July 31, 2023, refer the dispute raised in the present writ petition, regarding the billing of the WBSEDCL for the relevant period for

which arrears have been raised but the meter was defective, before the appropriate GRO.

As and when such an reference is made, the GRO shall decide the said dispute in accordance with law, upon giving opportunity of hearing both to the petitioner as well as the Distribution Licensee, as expeditiously as possible, preferably within four weeks from the date of such reference.

It is made clear, however, that the arrears payable by the petitioner shall revive upon being decided by the GRO. In the event the petitioner does not pay such arrears, even upon being adjudicated by the GRO and/or a further appellate forum, if so approached by either of the parties, it will be open to the WBSEDCL to disconnect the electricity in due course of law, for non-payment of such adjudicated arrears.

It is further clarified that nothing in this order shall prevent the WBSEDCL from taking appropriate steps for disconnection in due course of law, in the event the petitioner defaults in making the current payments of electricity charges.

This court has not entered into the merits of the allegations regarding the bills raised by the petitioner and it will be open to be decided on all issues by the GRO.

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 with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)