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16.06.2023
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In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. No. 13862 of 2023

Somnath Das
-vs.-
CESC Limited & Ors.

Mr. Bidyut Kumar Halder,
Mr. Indranil Halder,
Ms. Srabanti Das,
Ms. Neha Singh
...for the petitioner

Mr. Suman Ghosh
..for the CESC Limited

Learned counsel appearing for the petitioner argues that there was a previous round of litigation when the Distribution Licensee, that is, the Calcutta Electric Supply Corporation Limited (CESC Limited), claimed outstanding dues from the mother of the petitioner, who was the erstwhile consumer in respect of the disputed electricity meter, on the ground of unauthorised use of electricity.

The petitioner moved court, upon which a coordinate bench of this court, vide order dated August 08, 2013, passed in W.P. No. 21685(W) of 2013, had quashed the final order of assessment in the peculiar circumstances of the case and directed the concerned authorities to hear the matter again. In the meantime, the electricity supply to the defaulting meter was directed to be restored, subject to the petitioner

completing the formalities for change of name of the consumer within two weeks therefrom.

It was further observed by the learned Single Judge that in the event the petitioner deposits Rs.70,000/- without prejudice to the rights and contentions of the parties as an interim measure, supply shall be restored only after the petitioner takes necessary steps for change of the name of consumer. The restoration, which was directed, would be effected in the name of the petitioner provisionally only after he filed the requisite forms and complied with the other requirements, within a period of two working days.

It is argued that the petitioner duly deposited Rs.70,000/- and undertook all formalities for the purpose of change of name. However, neither any hearing was given to the petitioner as per the direction of the learned Single Judge to give a fresh hearing, nor was the restoration effected "in the name of the petitioner", either provisionally or otherwise.

Learned counsel appearing for the CESC Limited submits that upon the deposit of Rs.70,000/- and an application being made by the petitioner for change of name, the connection was given on an interim basis in compliance with the order dated August 08, 2013. However, for the change of name in the records, the petitioner is required under the relevant provisions of law to deposit all pending outstanding dues. Unless the quantum of outstanding dues is decided afresh, upon a

re-hearing being given, the question of such payment or the change of name does not arise.

It transpires that an interim restoration was effected by the CESC Limited in terms of the order of the coordinate Bench of this court dated August 08, 2013, upon the petitioner applying for the change of name and having deposited Rs.70,000/- provisionally.

However, there is nothing on record to indicate that any re-hearing has yet been given to the petitioner as per direction of the coordinate Bench. Insofar as the change of name is concerned, since the supply to the disputed electricity meter has been restored and the petitioner is enjoying electricity from the same in an unhindered manner, it cannot be said that the direction as to provisional restoration was not complied with by the CESC Limited.

In the circumstances above, W.P.A. No. 13862 of 2023 is disposed of by directing the CESC Limited to notify a date of re-hearing to the petitioner, for the purpose of compliance with the order dated August 08, 2013 passed in W.P. No. 21685 (W) of 2013 and, thereafter, upon giving opportunity of hearing to the petitioner, decide afresh the issue of final assessment on the allegation of unauthorised use of electricity. The entire exercise shall be completed by the CESC Limited as expeditiously as possible, positively within six weeks from date.

However, it is made clear that the CESC Limited shall, by tomorrow (17.06.2023), intimate the petitioner, directly or through the learned advocates for the petitioner in this Court, as regards exactly what further formalities have to be complied with by the petitioner for effecting the change of name of consumer in the name of the petitioner. Upon such intimation being given, the petitioner shall, by June 20, 2023, that is, next Tuesday, comply with all such formalities.

Upon the compliance of such formalities by the petitioner, the above direction regarding a date of hearing being fixed and a re-hearing being done on the final order of assessment shall be carried out. It is, however, made clear that the change of name, which shall be effected by the CESC Limited upon the petitioner complying with the formalities by June 20, 2023, shall be carried out positively by June 22, 2023.

It is further clarified that, for the purpose of such change of name, the “formalities” referred to by the CESC Limited, shall not include the payment of any outstanding dues by the petitioner on account of the alleged unauthorised use of electricity, which would only be decided subsequently after the re-hearing is given to the petitioner.

All parties shall act on a server copy of this order without insisting upon prior production of a certified copy thereof for the purpose of compliance.

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.)