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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 18998 of 2023

Ludlow Jute & Specialties
Limited & Anr.
Vs.
The Calcutta Electric Supply
Corporation Limited & Ors.

Mr. Abhrotosh Majumder,
Mr. Nirmalya Dasgupta,
Mr. Rajesh Upadhyay,
Mr. Shoham Sanyal,
Mr. Surabita Biswas
...for the petitioners

Mr. Om Narayan Rai,
Mr. Debanjan Mukherjee
...for the CESC Limited

Learned Senior Counsel appearing for the petitioners contends that the demands made by the Calcutta Electric Supply Corporation Limited (CESC Limited) for supply of electricity to labour lines of the petitioners' industry were palpably arbitrary and ought to be set aside. By placing the concerned bills for the relevant periods, as well as the notices dated August 02, 2023 threatening disconnection in default of payment of the alleged outstanding amounts, it is contended that the CESC Limited has disclosed almost nothing regarding the exact period for which there were incorrect recording of meter readings and the exact units consumed during such period. In view of there being no such allegations up to the month of May, 2023 and after July, 2023 onwards, the sudden inflated bills for the months of May and June, 2023 is without any explanation at all. It is contended that, admittedly, the meter-in-question does not suffer from any defect whatsoever. There is also no tampering charge on the part of the CESC Limited. As such, there is no rationale behind the exorbitant bills raised for the months of May and June, 2023.

In the event the CESC is of the opinion that the said bills were raised for retrospective periods, there is always the issue of the bar under Section 56(2) of the Electricity Act, 2003 being operative, since, in the absence of specific disclosure as to the relevant period, it may very well be assumed that the period for which such alleged under-billed amounts are charged, were beyond two years form the date of raising of the bills.

That apart, there is no justification whatsoever in the impugned demand notices, it is contended.

Learned Senior Counsel appearing for the petitioners, thus, submits that the said bills for the months of May and June, 2023, as well as the impugned demand notices be set aside.

It is further contended that the proposed disconnection by the CESC Limited shall adversely affect about 1200 family members of the labourers, who work for the petitioners' company and live in the labour lines, where the electricity-in-question is supplied by block meters for several clusters.

Leaned counsel for the CESC Limited submits that the writ petition is not maintainable since the challenge as preferred in the present writ petition pertains to a billing dispute which has to be resolved, under the governing Regulations, before the concerned Grievance Redressal Officer.

Secondly, it is submitted, that even without making any charge of tampering and/or faulty electricity meter, the demand notices themselves disclose that there were incorrect recording of meter readings for several months prior to May, 2023.

It is submitted that there is no bar in the Distribution Licensee to raise subsequent bills on account of mistakes committed in meter readings.

That apart, the writ petitioner, it is argued, has not disputed the units consumed during the relevant period. Hence, the present challenge is toothless.

Upon hearing learned counsel for the parties, it transpires that the bills for the month of May and

June, 2023 raised by the CESC Limited against the petitioners for supplying of electricity to the labour lines of the petitioners' workmen are palpably without any basis. On a plain reading of the bills for the previous and subsequent months, it is clear that the amount raised and the alleged units shown to be consumed as per the said bills are *ex facie* exorbitant.

The impugned bills are demonstratively exorbitant compared to the previous bills.

The explanation of the CESC Limited, afforded in the demand notices dated August 02, 2023, annexed at page 383 of the writ petition, throws precious little light on the said issue. In the very first sentence, the CESC Limited admits that there were incorrect recording of meter readings on the part of the CESC Limited for "months together prior to 2023". There is no disclosure whatsoever as to the exact months regarding which there was incorrect meter reading and what were the actual meter readings for the said months. That apart, no beak-up whatsoever has been provided by the CESC Limited for charging such exorbitant amount for the months of May and June, 2023.

The CESC Limited itself admits that the meter was not tampered and/or did not suffer from any fault. Hence, the reason for the incorrect readings and/or the basis of charging such exorbitant amounts is not also disclosed.

Contrary to the argument of the CESC Limited that the demand notices themselves afford an opportunity to the petitioners to clarify the discrepancies, if any, in the bills, the notices itself stipulate that "to avoid disconnection", the CESC Limited urges the petitioners to immediately make the payment of the outstanding amount or contact the undersigned, that is, the Assistant Manager (Commercial), Howrah Regional Officer of the CESC Limited to avail installment facility. It is also disclosed in the said notices that it is imperative that the petitioners act promptly in demonstration of their bona fide. "Bona fide" is a misused term in the demand notices, since the bills of the CESC Limited itself are arbitrary.

The notices contain direct threat of disconnection in the event petitioners do not pay the exorbitant amount charged, since it affords only two options to avoid disconnection - either to make payment of the outstanding amount or to contact the author of the communication to avail installment facility, both of which compel the petitioners to pay up. Hence, no prior opportunity of hearing or representation was given to the petitioners. More importantly, the demand notices are absolutely opaque and do not disclose any basis for the overcharging. Hence, the said notices cannot survive judicial scrutiny.

Insofar as the point of maintainability is concerned, since the demand notices impugned herein and the bills for the months of May and June, 2023 are palpably arbitrary and unreasonable, this Court, within its power of judicial review under Article 226 of the Constitution of India, is very well empowered to interfere, without unnecessarily relegating the petitioners to a fact-finding authority. The challenge preferred in the present writ petition is on broad principles of natural justice and does not require a fact-finding enquiry at this stage.

Accordingly, W.P.A. No. 18998 of 2023 is allowed on contest, thereby setting aside the bills raised by the CESC Limited against the petitioners for the months of May, 2023 and June, 2023 as well as the demand notices dated August 02, 2023 issued by the CESC Limited against the petitioners, which are impugned in the present writ petition. The CESC Limited shall raise fresh bills, indicating the exact break-up for charging the amounts in the said bills, for the months of May, 2023 and June, 2023, incorporating the previous dues, if any, by clearly mentioning the exact months when incorrect recording of meter readings took place and the exact units consumed during such months and the charge thereof.

As such, the bills for the month of May, 2023 and June 2023, including the detailed break-ups, shall be sent by the CESC Limited to the writ petitioners afresh.

However, nothing in this order shall preclude the CESC Limited from issuing current bills for continuing consumption of electricity by the petitioners regarding the meter-in-question, prior to issuance of the fresh bills.

It is made clear that in the event, after the CESC Limited issues such fresh bills in compliance with the order of this court, the petitioners have a further grievance with regard to the break-up, quantum and/or on other factual issues on the same, it will be open to the petitioners to approach the concerned Grievance Redressal officer for resolving such disputes.

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.)