

07 04.05.2023
RP Ct. No. 01
AN

FMA 1310 of 2022
with

IA No. CAN 1 of 2022

Gorachand Kundu

Vs.

State of West Bengal & Ors.

Mr. Tapas Kumar Dey
Mr. Ashis Kumar Dutta
Ms. Saswati Ghosh

... For the appellant

Mr. Srijan Nayak
Mrs. Rituparna Maitra

... For WBSEDCL

Mr. Debasish Ghosh
Mrs. Amrita Panja Moulick
Mr. Domingo Gomes

... For State

1. This intra-Court appeal is directed against the order dated 13.06.2022 passed in WPA 9349 of 2022. The appellant filed the writ petition seeking for directions upon the third respondent to install a new electricity connection to his residential premises or alternatively to restore the old electricity connection being Consumer No. D05-024. Learned Single Bench after taking note of the relevant provisions of the Electricity Act, 2003, more particularly, Sections 126 and 127 of the said Act held that the appellant has to challenge the final assessment order made by the respondent WBSEDCL by filing an appeal and for such purpose 50% of the assessed amount has to be paid by the appellant which is a mandatory condition in terms of Sub-Section 2 of Section 127 of the said Act and if such an

appeal is filed a direction has to be issued to consider the appeal.

2. Appellant's contention is that earlier he moved a petition before the District Consumer Forum and there is an order which is not being implemented by the respondent in spite of the direction issued by the Ombudsman. In our view, the District Consumer Forum would have no jurisdiction to adjudicate the present claim since there is an allegation of unauthorized extraction of electrical energy. That apart a criminal case has been registered against the appellant and he was arrested and as a condition imposed by the bail Court 25% of the assessed amount has been deposited by the appellant.

3. In the light of the above facts, until and unless the appellant deposits 50% of the assessed amount and challenge the assessment order by way of an appeal, no relief can be granted to the appellant. Therefore, in our view the learned Single Bench was perfectly right in dismissing the writ petition and at the same time made certain observations to which we find no grounds to interfere with.

4. In the event, the appellant files an appeal before the appellate authority, the appellate authority while computing 50% of the total assessed amount, the amount of 25% which has already deposited by the appellant pursuant to the condition imposed by the criminal Court while granting bail shall be adjusted against the amount required to be deposited by the appellant and the balance amount

can be deposited. If the appellant complies with the above conditions and seeks for restoration of the electricity connection, the appellant needs to pay necessary fees and charges for restoration of supply of electricity. The electricity connection shall be restored within one week from the date on which the deposit is made and the appeal is filed.

5. In the light of the above, the instant appeal stands **dismissed**. Consequently, connected application also stands disposed of.

(T. S. Sivagnanam)
Acting Chief Justice

(Hiranmay Bhattacharyya, J.)