

WPA 20263 of 2013

CESC Ltd. & Anr.

Vs.

The Appellate Authority & Anr.

Mr. Arnab Chakraborty.

... for the C.E.S.C./petitioners

The petitioners have challenged the order of the Appellate Authority and Regional Manager, South 24 Parganas Region, dated 01.06.2013, in Appeal Petition no. AP-14/12006021011 of 2009 under Section 127 of the Electricity Act, 2003.

The petitioners are aggrieved with the fact that while disposing of the said Appeal Petition, the Appellate Authority has not taken into consideration the facts and circumstances of the case that, the disconnection by the petitioners were made at the separate premises, that is, at No. P-1 Transport Depot Road. Instead, the Appellate Authority has proceeded to decide on the premise, that disconnection by the petitioners have been made at the 36, Chowringhee Road, Kolkata – 700071.

Mr. Charabarty, learned counsel appearing for the petitioners submits that the Appellate Authority in the order as impugned, has not dwelled open the actual facts, of the case as well as erred in law, in delivering the same.

He has further submitted that since in terms of the Appellate Authority's order, the connection in

the concerned premises was restored in the year 2010 in lieu of 50 per cent of the assessed amount of outstanding bill, and, thereafter, there has been no discord between the assessee and the petitioners, the said fact may be taken into consideration while disposing of this writ petition.

Affidavit-in-reply filed by the petitioners in Court today is taken on record. The record however, does not contain any affidavit-in-opposition, which might have been earlier filed by the respondents in this case.

No one is representing the respondents in this case today.

On perusal of the bill, annexed with the affidavit-in-reply being Annexure P-8, for the month of September, 2008, it appears that the petitioners have raised bill for supply of electricity at premises No. P-1 Transport Depot Road, though the bill is addressed to the assessee at 36, Chowringhee Road, Kolkata – 700071.

On perusal of the impugned order, it appears that the said fact has not been considered by the Appellate Authority while disposing of the appeal preferred by the assessee. Hence, the Appellate Authority has come to the findings that the steps taken by the petitioners of disconnection and raising bill would not be considered as fair and established, only on the basis of erroneous consideration.

The impugned order prima facie appears to be a result of non-consideration of the attending facts and circumstances of the case.

The foundation of the same being erroneous, the order is not proper and justified. Hence, the same is set aside, though without any further directions, in consequence thereto.

At this juncture, , the submissions made on behalf of the petitioners may be taken into consideration that since 2010, the assessee, after submitting 50 per cent of the assessed amount, has been restored with the electricity connection and has been enjoying the same without any further complication, dispute or issues between the parties.

Under such circumstances, this Court finds it proper to direct, while disposing of this writ petition that, the amount of outstanding bill already paid by the assessee to the petitioner, shall be settled as full and final payment of the said bill by him. The assessee shall not be called, upon any further to pay any further amount excepting what has been already deposited by him in connection with the present case.

The petitioners shall continue to provide him the electricity supply, subject to the assessee's compliance with the necessary formalities and compliances, in accordance with law.

With these directions, the writ petition is disposed of.

All pending applications, if any, are consequently disposed of.

Urgent certified photostat copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Rai Chattopadhyay, J.)