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07.12.2023
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IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. No. 21201 of 2023

Swapan Banerjee
Vs.
The State of West Bengal & Ors.

Mr. Shamba Chakraborty,
Mr. Triptimoy Talukdar
.... for the petitioner

Mr. Sujit Sankar Koley
....for the WBSEDCL

Mr. Pratik Dhar,
Mr. Ritwik Pattanayak
....for the WBERC

1. Learned counsel appearing for the petitioner submits that the petitioner is a micro-level businessman in the locality from where he comes and runs a very small business. The petitioner and other small businessmen, it is argued, have been severely affected by the tariff increase by the West Bengal Electricity Regulatory Commission (WBERC), which has been reflected in the electricity bills issued by the West Bengal State Electricity Distribution Company Limited (WBSEDCL) to the petitioner.

2. It is contended that such abrupt increase is *de hors* the principles of natural justice. It is submitted that such increase ought to be set aside.

3. Learned senior counsel appearing for the WBERC submits that the WBERC undertook a detailed process in arriving at and assessing the said increase. It is submitted that due process was adhered to by the WBERC in arriving at the minimum charge-in-question.

4. The minimum charge for industrial units as per the increased tariff is Rs.200/- per KVA per month. It is submitted that in any event, there is no palpable irregularity or error in such fixation. Even otherwise, it is argued that there is an existing appellate forum as envisaged under Section 111 of the Electricity Act, 2003, before which such grievance can be ventilated.

5. Heard learned counsel for the parties.

6. Upon a perusal of the concerned tariff order dated March 30, 2023, the Court does not find any palpable illegality or irregularity in arriving at the minimum charge by the WBERC. In any event, it has to be kept in mind that neither this Court, nor any other court, is an expert in the field. In order to intervene under the limited conspectus of judicial review, a much higher case had to be made out by the petitioner.

7. Be that as it may, since an appellate forum is available under the relevant statute, the petitioner will always be at liberty to approach the said forum.

8. However, no interference is called for under Article 226 of the Constitution of India.

9. Accordingly, W.P.A. No. 21201 of 2023 is dismissed on contest with liberty to the petitioner to challenge the concerned tariff order before the appropriate appellate forum.

10. There will be no order as to costs.

11. 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.)