

AD-22
Ct No.09
11.12.2023
TN

WPA No. 21956 of 2023

Utpal Ghosh
Vs.
The State of West Bengal and others

Mr. Anindya Bose,
Mr. Santanu Maji

.... for the petitioner

Mr. Suman Ghosh,
Ms. Munmun Tewary

.... for the State

Dr. Madhusudan Saha Roy,
Ms. Debangana Dey Nayak

.... for the WBSEDCL

- 1.** Learned counsel for the petitioner submits that the petitioner challenged an order of final assessment on the allegation of pilferage under Section 127 of the Electricity Act, 2003. The petitioner had taken several grounds, including that the petitioner is a resident outside the State and has been using the concerned connection only for domestic purpose. Hence, there was no question of user of the electricity given to such connection for operating any submersible pump.
- 2.** However, such issues have not been reflected in the order of the Appellate Authority which is cryptic in nature.

- 3.** Learned counsel appearing for the West Bengal State Electricity Distribution Company Limited (WBSEDCL) controverts the allegations made by the petitioner and submits that it is the petitioner who is the owner of the submersible pump and has been pilfering electricity for operating the same. Detailed documents, including several reports and photographs, were produced before the authorities, on the basis of which the Appellate Authority came to its conclusion.
- 4.** As such, learned counsel for the WBSEDCL defends the impugned order of the Appellate Authority on the ground that the same took into consideration all relevant factors.
- 5.** Be that as it may, if the WBSEDCL had produced detailed documents for substantiating its contention of pilferage against the petitioner, those also ought to have been reflected in the order of the Appellate Authority. Having not done so, the order of the Appellate Authority appears to be cryptic and has to be set aside on such score alone.
- 6.** Accordingly, WPA No. 21956 of 2023 is allowed, thereby setting aside the impugned order of the Appellate Authority dated August 17, 2023 and directing the Appellate Authority to re-adjudicate

the appeal upon giving a fresh hearing to both sides, taking into consideration the materials already on record.

- 7.** Such exercise shall be completed by the Appellate Authority at the earliest, positively within February 15, 2024.
- 8.** It is made clear that it will be open to the Appellate Authority to decide all questions independently without being influenced in any manner by any of the observations made herein unnecessarily.
- 9.** 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 with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)