

13.06.2024
Item No.28
Ct. No. 7
KS

W.P.A. 1656 of 2009

C.E.S.C. Limited & Anr.

Versus

**The Appellate Authority, office of the Circle
Manager, Hooghly (Dist) Circle, West Bengal State
Electricity Distribution Co. Ltd. & Ors.**

Mr. Om Narayan Rai
Mr. Debanjan Mukherjee
Mr. Shounak Mitra
Mr. Aditya Sarkar

.....For the Petitioners

Mr. Sujit Sankar Koley

.....For the W.B.S.E.D.C.L.

Mr. Noni Gopal Chakraborty

.....For the Private Respondent

1. The order of the appellate authority dated December 2, 2008 in Appeal No.39 of 2008 is under challenge in this writ petition at the instance of C.E.S.C. Limited.
2. By the order impugned, the provisional order of assessment and the final order of assessment were set aside.
3. Alleging that the incoming neutral for the meter in question was found disconnected, the meter standing in the name of 3rd respondent was disconnected by chopping off service cable and keeping it under LCC seal. The inspection report specifically states that the disconnection

was on 10th June, 2008. The provisional order of assessment dated 10th June, 2008 states that the supply was disconnected on 10th June, 2008 and a complaint was lodged with the local police station on 10.06.2008. From the complaint lodged before the Inspector-in-Charge, Serampore Police Station, it is evident that the disconnection was alleged to be made on 10th June, 2008. The respondent no.3 raised an objection against the provisional order of assessment and the Assessing Officer passed the final order of assessment on 7th July, 2008. The Assessing Officer disposed of the matter by assessing a sum of Rs.58,056/- as charges payable by the consumer, who was benefited by such unauthorized use of electricity. The respondent no.3 preferred an appeal under Section 127 of the Electricity Act, 2003 and the appellate authority, by the order impugned, set aside the provisional order of assessment and final order of assessment.

4. After going through the materials on record, this Court finds that the appellate authority recorded a finding that the electricity supply was disconnected on 11th June, 2008 and it was also observed that the inspecting team of C.E.S.C. Limited did not enter into the metering room of Sk. Amiruddin. Such finding does not have any basis on the materials on record.

5. This Court, therefore holds that the order of the appellate authority suffers from perversity and for such reasons, the same is liable to be interfered with.
6. For the reasons, as aforesaid, the order of the appellate authority dated December 2, 2008 in Appeal No.39 of 2008 is set aside. The appellate authority is directed to rehear the Appeal No.39 of 2008 and after giving an opportunity of hearing to the respective parties dispose of the appeal petition by passing a reasoned order. The entire exercise shall be completed as expeditiously as possible, but positively within a period of four weeks from the date of receipt of a server copy of this order.
7. Accordingly, writ petition stands allowed.
8. There shall be, however, no order as to costs.
9. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(HIRANMAY BHATTACHARYYA, J.)