

25.06.2024
Ct. No. 09
Item 22
Cp

WPA No. 3567 of 2024

West Bengal State Electricity Distribution
Company Limited & Ors.

Vs.

Ombudsman, West Bengal Electricity Regulatory
Commission & Anr.

Mr. Dr. Madhusudan Saha Roy

... for the petitioners.

Mr. Sujit Kumar Shah

Ms. P. Roy

.....for the respondent no. 2.

1. The petitioners are aggrieved by the final order passed by the ombudsman, being W-30 YM/2023 dated July 17, 2023 being annexure P-8.
2. The case of the petitioners is that the ombudsman did not consider the effect of the decisions of the Hon'ble Apex Court in the matter of M/s Prem Cottex vs. Uttar Haryana Bijli vitran Nigam Ltd. & Ors., in Civil Appeal No. 7235 of 2009 dated October 5, 2021, while passing the order impugned. According to the petitioners, STW connection (Agricultural) had been granted to the respondent no. 2. Such connection was given in the village, in a cluster form. Two or three connections were often given from one transformer. Meter reading used to be taken by an authorized agency. Connection was effected in 2018 and from February, 2018 to

March 2022, average bills had been raised by the distribution company due to mass agitation by the villagers. The continuous threat of the villagers to cause bodily harm and injury to the meter reader and to the authorities of the customer care centre, readings were not taken. Accordingly, the actual consumption by the customer was never charged.

3. According to the distribution company, the inability of the agency responsible to take the meter reading, should not be a ground for the ombudsman to set aside the bill subsequently claimed from the consumers. Upon taking proper meter reading, the additional bill was raised. It was a bona fide claim. It is not in dispute that the amount of units claimed had been consumed by the consumer and the law enjoins a duty upon the consumer to pay the amount. The law permits the distribution company to raise bills as per the meter reading and for the fault or the inability of the agency, the distribution company should not be deprived from claiming the legitimate dues, thereby resulting in huge loss of revenue. It is contended that the grievance was raised by the consumer with regard to the supplementary/additional bill which was raised upon taking proper meter reading, to make good the loss incurred for raising average bills.

4. The consumer challenged the said bill before the Regional Grievance Redressal Officer. The Regional Grievance Redressal Officer passed an order directing the consumer to pay the bill in instalments. It was also observed that the timely meter reading could not be taken by the respective readers/agency. This was a fault on their part. Thus, instalments were granted, but it was directed that no LPSC should be charged. According to the RGRO, legitimate bills had been raised as per the meter reading, which was permissible in law.
5. The consumer preferred an appeal before the ombudsman. The ombudsman came to the conclusion that the petitioner could not justify that the consumer had agreed to pay the average bills. Under such circumstances, the additional bill claimed by the distribution company was found to be barred under Section 56(2) of the Electricity Act, 2003.
6. The learned advocate for the consumer submits that the average bills were intentionally raised without any request or agitation from the consumer. The consumer never demanded average bills. The consumer was always agreeable to pay the bills which were raised. Belated bills, beyond a period of two years from the period when such units were consumed, were barred by law. It was either carelessness or fault on the part

of the distribution company, in not raising proper bills. Timely readings were not taken and this was laches and negligence of the authority, for which the consumer could not be saddled with the burden of paying an enormous bill.

7. A consumer should not bear the burden of the huge bills, suddenly, after four years from the expiry of the period when average bills were raised. The ombudsman rightly applied the provision of Section 56(2) of the Electricity Act, 2003.
8. It is an admitted position that the bills were not raised according to the meter reading, although the law provides that the bills could only be raised on the basis of meter readings. The contention of the distribution company was that due to mass agitation and restraint by the villagers, the meter reader refused to take the meter readings and raised average bills. When the error was detected and the loss incurred by the distribution company was assessed, it was found that on account of such failure of the meter reader, the huge loss of revenue had occurred. Thereafter, the meter reading was taken and the units were charged by issuing an additional bill. Although, the RGRO was of the opinion that as per the decisions of the Hon'ble Apex Court, additional bills or supplementary bills could be raised and the same would not be a bar

under Section 56(2) of the Electricity Act, 2003, the ombudsman was of the view that the additional bill was not genuine and hence, barred under Section 56(2) of the Electricity Act, 2003.

9. Certain disputed facts which have arisen before this court, require further consideration by the appropriate authority, namely, a) whether there was resistance by the villagers between February 2018 to March 2022 which prevented the meter reader from taking the meter reading. b) whether the villagers themselves asked for average bills. c) whether the villagers had objected or protested or resisted the meter reader or the authorities of the customer care centre from visiting the premises to take meter readings. d) Whether failure of the officer of the customer care centre and the meter reader to take the meter reading would be justifiable grounds to deny the West Bengal State Electricity Distribution Company, which is a public sector undertaking dealing with public money, to suffer loss of revenue. e) Whether it would be justified to set aside such bill on the ground that there was negligence either on the part of the meter reader or even on the particular officer of the concerned customer care centre. f) Whether bills not claimed under the aforesaid circumstances, would be barred under Section 56(2) of the Electricity Act, 2003. g)

Whether the consumer was required by law to pay the bills as per meter reading and could claim protection from such liability by alleging fault or negligence on the part of the authorities.

10. When the above points are answered, the next two questions would be whether, the decisions of the Hon'ble Apex Court permitting raising of bills at a later stage on the ground of bona fide error or mistake, should be applied in the case in hand. Whether the distribution company could always raise a supplementary bill to recover the losses incurred for the inability or the failure of certain persons responsible to issue proper bills against proper meter readings.
11. Under such circumstances, the orders of the ombudsman as also the RGRO are set aside.
12. The matter is remanded to the RGRO, Murshidabad to rehear the matter and decide the entire dispute raised by the consumer, upon taking into account the amount already paid by the consumer and the differential amount that was charged in the additional/supplementary bill, in the light of the specific questions and issues formulated by this court as also with reference to the relevant decisions of the Hon'ble Apex Court, in this regard. Needless to mention, adequate opportunity of hearing shall be

granted to all interested parties, especially the consumer. All parties will be heard.

13. The entire exercise shall be completed within a period of two months from the date of communication of this order. No coercive measure shall be taken by the authority till the disposal of the issues.
14. The writ petition is accordingly disposed of. There shall be no order as to costs. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)