

9th April,
2024
(AK)
17-18

W.P.A 4616 of 2024

Lalan Singh
Vs.
CESC Limited and others
With

W.P.A 5220 of 2024

CESC Limited
Vs.
Lalan Singh and others

Mr. Bidyut Kr. Halder
Mr. Indranil Halder
Ms. Neha Singh
...for the petitioner in W.P.A
4616 of 2024.

Mr. Bidyut Kr. Halder
Mr. Indranil Halder
...for the respondents in W.P.A
5220 of 2024.

Mr. Om Narayan Rai
Mr. Debanjan Mukherjee
...for the CESC Limited.

Mr. Debdeep Sinha
...for the respondent no.4
in W.P.A 4616 of 2024 &
for the respondent no.2
in W.P.A 5220 of 2024.

Ms. Tuli Sinha
...for the State.

1. Affidavit-of-service filed in court today be kept on record.
2. The two writ petitions are taken up together due to identity of causes of action.

3. The writ petitioner in WPA 4616 of 2024 alleges that he is a tenant in respect of a hutment under the private respondent.
4. Since disturbances were allegedly created by the landlord, the petitioner had to approach the CESC Limited for an independent metered electricity connection.
5. However, the CESC Limited refused to give the same for which the petitioner approached the concerned Grievance Redressal Officer (GRO).
6. The GRO directed a block meter to be installed.
7. Being aggrieved, the petitioner moved the Ombudsman who directed that the petitioner should be given an independent electricity connection.
8. Subsequently, Offer Letters were issued by the CESC Limited and the petitioner complied with formalities but due to obstruction by the private respondent-landlady, the connection could not be given.
9. It is argued that in view of the order of the Ombudsman having attained finality, there cannot be any scope for the CESC Limited to resile from such position.
10. Learned counsel for the CESC Limited, the writ petitioner in WPA 5220 of 2024, challenges the Ombudsman's order on the ground that it is not

feasible for safety reasons to give any other metered connection apart from conversion of the existing meter to a block meter which would cater to the landlady and all the tenants including the petitioner as well.

11. It is contended that although an Offer Letter has been issued by the CESC Limited pursuant to the order of the Ombudsman, in terms of the provisions of Section 37 of the Indian Contract Act, 1872, the parties to a contract may resile from performing its part of the contract if such performance is dispensed with or excused under the provisions of the Contract Act or any other law.
12. Learned counsel cites Regulation no.53 dated April 2, 2013 of the WBERC to indicate that in places which are congested and there are several number of consumers huddled in a small or cramped space, the Distribution Licensee shall give electricity connection by way of a block meter.
13. The said Regulation being an exception within the contemplation of Section 37 of the Contract Act, it is argued that for the sake of safety and security of all the people in the neighborhood, a block meter is the only solution.
14. Learned counsel for the landlady submits that her objection is primarily on the ground of safety as well.

15. Since the CESC Limited is of the opinion that a block meter should be installed, the landlady does not have any objection to the same.
16. Learned counsel for the petitioner, in reply, points out that if a block meter is given by converting the existing connection to the same, the block meter will also stand in the name of the landlady herself, which would sustain the present circumstances of the landlady having total control over the meter.
17. Hence, the petitioner then would be at the mercy of the landlady in respect of supply of electricity.
18. Such limited point is refuted by learned counsel for the CESC Limited, who contends that the concept of a block meter is that all the persons to whom electricity is supplied from the said block meter will be consumers in equal right with regard to the meter.
19. In fact, the block meter shall stand not solely in the name of the original consumer, that is, the landlady but in the name of the landlady and others, including all consumers taking electricity therefrom.
20. That apart, it is clarified by learned counsel for the CESC Limited that separate sub-meters will be permitted to be installed by the respective consumers who take electricity supply from the said block meter.

21. As such, though the source of supply would be common, the electricity supplied would be through separate sub-meters which would grant considerable independence to each of the respective consumers deriving electricity supply from the block meter.
22. It transpires that the order of the GRO was elaborate on the count of consideration of all the pros and cons of giving electricity connection.
23. Insofar as the apprehended splitting of load is concerned, the same was not upheld by the GRO and/or by the Ombudsman.
24. However, the order of the GRO is much more reasoned than that of the Ombudsman, the latter being more swayed by emotion and sympathy for the plight of the slum dwellers than cold logic.
25. Definitely, it is to be said for the Ombudsman that there is equal place of heart and head in adjudicating issues.
26. However, it is also to be looked into as to whether such emotion overrides overwhelming safety concerns, which might turn out to be fatal not only to the parties here but also to all other people in the neighbourhood.
27. The premise of overturning the well-reasoned order of the GRO in the order of the Ombudsman was merely that if it is held in favour of grant of a block

meter, such type of reasons may frustrate the very purpose of providing electricity to the poor people living in slum areas. The licensee, it was observed, should rather take necessary survey and take adequate measures to combat the safety hazards, if any, at the time of effecting connection to the people living in the slum area; otherwise, the poor people living in the slum area will never get a connection of their own to live a respectable life.

28. Such apprehension of the Ombudsman, although laudable, is belied by the technical stand taken by the CESC Limited.
29. It is evident that even if a single block meter is given, the same will stand in the name of all the consumers including the petitioner and the petitioner and all other consumers from the block meter will be entitled to install their independent sub-meters, thereby having the effect of all the consumers having independent connections of their own.
30. Thus, the very premise of the order of the Ombudsman is unjustified.
31. Rather, the much more well-reasoned grounds of the GRO have to be accepted, keeping in view the technical and safety concerns as well.
32. In such view of the matter, WPA 5220 of 2024 is allowed, thereby setting aside the order of the

Ombudsman and directing the CESC Limited to convert the existing electricity connection standing in the name of the respondent no.2-landlady to a block meter which will be given in the name of the landlady as well as the petitioner and all other intending consumers from the said block meter.

33. It is made clear that the petitioner and all others concerned shall be entitled to apply for such conversion.
34. The respondent no.2 in WPA 5220 of 2024 (the landlady) shall join with the petitioner in applying for such conversion as well.
35. Such application(s) shall be made at the earliest by the petitioner and the landlady and if any other tenant intends to do so, by them, preferably within a week from date.
36. Upon such application(s) being made, the CESC Limited shall take necessary steps immediately for conversion of the existing electricity meter of the landlady to a block meter in the name of all applicants.
37. It is made clear that the CESC will give the option to all the consumers to install their independent sub-meters from the said block meter.
38. It is further clarified that nothing in this order shall prejudice the rights, title and contentions of the

private parties with regard to the property-in-question.

39. It is also made clear that the security deposit already made by the petitioner pursuant to the Offer Letter given by the CESC Limited shall be adjusted by the CESC Limited with the amount payable by the petitioner for getting the said conversion and a connection therefrom.
40. WPA 4616 of 2024 is also disposed of accordingly.
41. There will be no order as to costs.
42. Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)