

12.06.2024
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AN/Ct. No.07

WPA 3900 of 2009

**WBSEDCL
versus
The Ombudsman & Ors.**

Mr. Sumit Kr. Panja
Mr. Sumit Roy

... for the petitioner WBSEDCL

This writ petition is filed at the instance of the West Bengal State Electricity Distribution Co. Ltd. (in short, WBSEDCL) and is directed against an order dated 11.06.2008 passed by the Ombudsman West Bengal Electricity Regulatory Commission. The WBSEDCL realised infrastructure development cost alongwith other charges through a quotation for the purpose of effecting supply of electricity to the 3rd respondent herein. The 3rd respondent raised an objection against the realization of such infrastructure development cost and the Grievance Redressal Officer (in short, GRO) rejected the prayer by a letter dated 30.07.2007.

Challenging the said decision, the 3rd respondent approached the Ombudsman and the Ombudsman by the order dated 11.06.2008, directed refund of the amount realised on account of infrastructure development cost together with interest.

Being aggrieved by and dissatisfied with the order, WBSEDCL is before this Court by way of this writ petition.

Mr. Panja, learned counsel appearing for the petitioner submitted that the Ombudsman allowed the prayer of the 3rd respondent and directed the refund of infrastructure

development cost without assigning any reason as to why the WBSEDCL was not entitled to infrastructure development cost

It is not in dispute that in response to the application of the 3rd respondent dated 31.03.2003 for industrial connection, the 3rd respondent deposited the security deposit as well as other charges in terms of the quotation raised by the petitioner. The amount indicated in the quotation was deposited on 27.06.2003 and the connection was effected on 13.11.2003. It is also not in dispute that the WBSEDCL realized the infrastructure development cost of Rs. 28,000/-.

The Ombudsman noted that the Electricity Act, 2003 came into effect on and from 10.06.2003 and also that Section 46 of the said Act of 2003 provides that the said Commission may by, Regulations, authorize the distribution licencees to charge from a person requiring a supply of electricity in pursuance of Section 43 any expenses reasonably incurred in providing any electricity line or electrical plant used for the purpose of giving that supply. It was further noted that in the said order that the Commission advised the distribution licencees to desist from demanding and/or accepting “additional” security deposit or development charges from any consumer. On the basis of such observations, the Ombudsman opined that the WBSEDCL was not authorized by the West Bengal Electricity Regulatory Commission to realize the infrastructure development cost from the consumers.

In the light of the aforesaid findings, the Ombudsman directed the WBSEDCL to refund the infrastructure development cost or Rs. 28,000/- to the 3rd respondent herein alongwith the interest @ 6% p.a. from the date of realization i.e. 27.06.2003 to

the date of refund. It is not in dispute that till date the said amount has not been refunded to the 3rd respondent. This Court is not inclined to accept the contention of the learned counsel appearing for the petitioner that the order of the Ombudsman is a non-speaking one.

For the reasons as aforesaid, this Court is not inclined to interfere with the impugned order of the Ombudsman dated 11.06.2008. The petitioner is directed to comply with the directions contained in the order of the Ombudsman dated 11.06.2008 within a period of four weeks from the date of receipt of the server copy of this order.

In the result, the writ petition stands **dismissed** however without any order as to costs.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Hiranmay Bhattacharyya, J.)