

July 29, 2024
Sl. No.258
Court No.9
s.biswas

WPA 7804 of 2024

Sk. Saiful Alam @ Sk. Saifoul
vs.
The Calcutta Electricity Services Corporation
Limited and others

Mr. Debasish Kundu
Mr. Bidan Modak

... for the petitioner

Mr. Shoham Sanyal

... for the CESC

1. The petitioner alleges that the CESC authorities have illegally disconnected the supply without detection of theft of electricity. It is next contended that the petitioner was not given adequate opportunity of hearing. The learned advocate for the petitioner was not allowed to make submissions on behalf of the petitioner, before the final assessment was made. Finally, it is contended that the assessment was made in violation of principles of natural justice.
2. The petitioner alleges that the authorities could not have disconnected the supply on account of user of extra load as the petitioner paid for the consumption that was recorded in the meter. The meter reader had regularly recorded the units consumed and accordingly charges were claimed by the CESC Limited. Such charges were also paid. In the absence of any allegation that the petitioner had tampered with the meter, the

allegation of unauthorized use of electricity would not survive. Reconnection should be directed and the demand should be quashed.

3. The learned advocate for the CESC Limited submits that the petitioner was consuming electricity beyond the contractual limit, by tampering with the wiring. The petitioner was heard. The first notice of hearing was issued on January 29, 2024. It is further contended that the authorities had entered the premises for an inspection, upon notice to the petitioner. The provisional assessment order was made. Thereafter, the final assessment was also made. The order of final assessment records that the petitioner was present at the hearing.
4. From the inspection report, it appears that inspection was made on January 29, 2024, by an authorized officer of the CESC Limited. The matter was reported to Sankrail Police Station. It was found that the meter arrangement was tampered, by interchanging the incoming phase and neutral loops in respect of meter no.3384517, by using an external wiring arrangement and a connecting and disconnecting mechanism. The connected load was found to be 3 kilowatt although the contractual load was 1.30 kilowatt.

5. Thus, the first contention of Mr. Kundu that there was no allegation of tampering is not established. The inspection report indicates that the incoming phase and the neutral loops were found interchanged at the meter's terminal. Further submission that the petitioner paid whatever was claimed and thus was not liable to pay any further assessed amount, is also not accepted. The final assessment had been made by following the due process of law. The amount payable at a penal rate for the alleged use of electricity by illegal means, i.e., by using an external wiring arrangement and by changing the loops and the wiring system of the meter, has been raised according to the Regulations.
6. The questions raised cannot be decided in the writ petition and the court has no other option but to accept the inspection report, as the petitioner has not been able to establish that either the inspection report suffered from any illegality or that the procedure followed by the authorities were illegal and the calculation of the penal amount had been made contrary to the Regulations. The authority has the power to inspect any premise, in order to detect whether there is any unauthorized use of electricity. Thus, this court cannot hold that the CESC

authorities had inspected the premises of the petitioner in an unauthorized manner. The petitioner's presence has been recorded during such inspection. Finally, it appears that the petitioner was heard when the assessment was made. The petitioner's contention that his learned advocate was not allowed to participate, is not available in the records.

7. Under such circumstances, this court is not inclined to pass any orders save and except granting liberty to the petitioner to approach the appellate authority in accordance with Section 126 of the Electricity Act, 2003, in accordance with law. Prayer for reconnection can be made, which shall also be decided according to law. The question of limitation shall not be raised as the petitioner has preferred the writ petition challenging the final assessed amount, within a period of one month.
8. Accordingly, the writ petition stands disposed of.
9. All the parties are directed to act on the basis of the server copy of the order.

(Shampa Sarkar, J.)