

July 8, 2024
Sl. No.85
Court No.9
s.biswas

WPA 10250 of 2024

CESC Limited
vs.
State of West Bengal and others

Mr. Om Narayan Rai
Mr. Debanjan Mukherjee

... for the petitioner

Mr. Susanta Pal
Mr. Prabir Kumar Ray

... for the State

1. Affidavit of service is taken on record. Despite service, none appears on behalf of the respondent No.3.
2. The petitioner has challenged the order passed by the learned District Consumer Redressal Commission, Hooghly, in CC 165 of 2023. The respondent no.3 was a consumer under the CESC Limited. The CESC Limited disconnected the supply on the allegation of theft. The provisional assessment was made. The petitioner approached the learned District Consumer Redressal Commission, Hooghly. The final order of assessment was also passed and the petitioner filed a miscellaneous application challenging the final order of assessment being MA 76 of 2023. The CESC Limited filed MA 81 of 2023 challenging the maintainability of the proceeding.
3. By an order dated February 2, 2024, the District Consumer Redressal Commission, Hooghly

disposed of MA 81 of 2023 without considering the question of maintainability and kept the matter pending for trial.

4. It appears to this court that the forum ought to have first decided as to whether the proceeding was maintainable at all. The disconnection was on account of the alleged theft of electricity.
5. The Hon'ble Apex Court in the matter of **Uttar Pradesh Power Corporation Limited and others vs. Anis Ahmad** reported in (2013) 8 SCC 491, has decided the issue. The petitioner's contention is that disconnection on account of theft of electricity cannot be termed as deficiency of service. The law permits the CESC Limited to disconnect the supply of electricity, in case of detection of theft, make the provisional assessment as also the final assessment. Section 126 provides an alternative remedy of appeal against such final assessment. The District Consumer Disputes Redressal Commission can only deal with the issues relating to services to be provided by CESC to any consumer and consider allegations of deficiency in service.
6. This court deems it fit to set aside the order dated February 2, 2024 and directs the District Consumer Disputes Redressal Commission, Hooghly to hear MA 81 of 2023 first and dispose

of the same by passing a reasoned order within a month from the date of communication of this order, upon considering the arguments of the respective parties, the respondent No.3 as also the decision of the Hon'ble Apex Court.

7. Accordingly the writ petition stands disposed of.
8. All the parties are directed to act on the basis of the server copy of the order.

(Shampa Sarkar, J.)