

D/L.19.
April 30, 2024.
MNS.

WPA No. 10333 of 2024

Sanat Kumar Mondal
Vs.
The West Bengal State Electricity Distribution
Company Limited and others

Mr. Sanat Kumar Mondal

... petitioner in person.

Dr. Madhusudan Saha Roy

...for the WBSEDCL.

1. Affidavit-of-service filed in Court today be kept on record.
2. The petitioner, appearing in person with leave of court, contends that the petitioner has already deposited 50% of the finally assessed amount, which has been claimed by the West Bengal State Electricity Distribution Company Limited (WBSEDCL) under Section 126 of the Electricity Act, 2003 (2003 Act).
3. The petitioner submits that the petitioner's mother is a nonagenarian and the petitioner's wife is suffering from various ailments. In these scorching summer months, it is submitted, the electricity connection be restored upon payment of 50% of the assessed amount.
4. Learned counsel for the WBSEDCL argues that the final order of assessment is of the

year 2018 and any appeal under Section 127 of the 2003 Act, even if sought to be filed now, would be time-barred.

5. Moreover, it is submitted that the petitioner himself sought to deposit 50% of the charges.
6. It is gathered from the submissions of the parties that the petitioner has deposited 50% of the finally assessed amount, but as a condition of obtaining anticipatory bail.
7. Moreover, the petitioner has not preferred any appeal under Section 127 of the 2003 Act, which has now become time-barred. Thus, the final assessment has attained finality.
8. Despite expressing its sympathy for the plight of the petitioner, the court is bound by the provisions of Sections 126, 127 and 135 of the 2003 Act, which collectively stipulate that unless the full amount as assessed by the WBSedCL is deposited, electricity connection, disconnected on the ground of pilferage, cannot be restored.
9. In the present case, the utmost that can be done for the petitioner is that the petitioner may be granted liberty to deposit balance 50% of the dues, by deeming the 50% already deposited as condition of the anticipatory bail to be the rest 50%, for the purpose of giving reconnection to the petitioner.

10. However, it is made clear that such exception is only being contemplated keeping in view the special circumstances of the case inasmuch as the serious condition and advanced years of the petitioner's mother and the grave ailments of his wife are concerned, and also on the consideration that non reconnection can lead to serious consequences for the family of the petitioner, particularly in the current summer months.

11. Accordingly, WPA No. 10333 of 2024 is disposed of by granting liberty to the petitioner to deposit the balance 50% of the amount finally assessed by the WBSEDCL under Section 126 of the 2003 Act, by deeming the other 50% deposit for the purpose of reconnection to be the amount which was deposited by the petitioner as a condition for grant of anticipatory bail.

12. Needless to say, in the event the petitioner is ultimately found guilty of pilferage/unauthorized use of electricity by the criminal court, the WBSEDCL shall be entitled to retain the balance 50% amount, which has been deposited as condition of anticipatory bail and the WBSEDCL will be at liberty to produce a copy of this order before the

concerned criminal court to acquire the right to retain such amount.

13. It is made clear that in the event the balance 50% is deposited by the petitioner, the WBSEDCL shall restore the electricity connection to the petitioner within a week thereafter.

14. It is reiterated that the above directions have been passed in the special circumstances of the case and shall not be treated as a precedent, since the same is rather in deviation from the established law on the issue.

15. There will be no order as to costs.

16. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)