

July 15, 2024
Sl. No.142
Court No.9
s.biswas

WPA 15945 of 2024

Shamendra Dalmia
vs.
CESC Limited and another

Mr. Bidyt Kr. Halder
Mr. Indranil Halder

... for the petitioner

Mr. Suman Ghosh

... for the CESC

1. The writ petition has been filed challenging an order of final assessment, with further prayer for restoration of supply upon payment of 50% of the assessed amount.
2. The petitioner relies on Sections 126 and 127 of the Electricity Act, 2003. According to the petitioner, when the provision of appeal allows deposit of 50% only, to avail of the remedy of the appeal, the court should allow reconnection, upon deposit of 50% of the finally assessed amount.
3. Mr. Halder, learned advocate for the petitioner, submits that if the entire finally assessed amount is directed to be paid, then the appeal becomes infructuous.
4. Mr. Ghosh, learned advocate representing the CESC, submits that the law has been well-settled. The third proviso to Section 135(1A) of the Electricity Act, 2003, clearly indicates that only on deposit of entire finally assessed amount, the connection can be restored. Such deposit will be

made without prejudice to the objections raised by the consumer.

5. The contention of Mr. Halder is not accepted as Section 127 talks about an appeal upon deposit of half of the assessed amount. The said section does not talk about restoration of supply. The third proviso to Section 135(1A) reads as follows:-

Provided also that the licensee or supplier, as the case may be, on deposit or payment of the assessed amount or electricity charges in accordance with the provisions of this Act, shall, without prejudice to the obligation to lodge the complaint as referred to in the second proviso to this clause, restore the supply line of electricity within forty-eight hours of such deposit or payment.

6. Moreover, Regulation 6.4 of the Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2013 provides that upon payment of the provisional bill or the final bill, reconnection will be effected within 48 hours.
7. Under such circumstances, the writ petition cannot be entertained with the prayer as made by Mr. Halder. However, the petitioner is at liberty to approach the authority for payment of the assessed amount in instalments and the petitioner is also entitled to prefer an appeal in accordance with law. As the writ petition has been filed within a month from receipt of the final order of assessment, the appeal shall be entertained without raising any question of delay,

provided the appeal is filed within a week from the date of communication of the order.

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.)