

D/L. 4.
January 18, 2024.
MNS.

WPA No. 16631 of 2023

West Bengal State Electricity Distribution
Company Limited
Vs.
Sri Bholanath Chakraborty and another

Mr. Raj Kumar Basu

... for the petitioner/WBSEDCL.

Mr. Saibal Acharyya,
Mr. Pradip Paul,
Ms. Nenesa Dey

...for the respondent no. 1.

1. The conspectus of the present writ petition is limited.
2. The petitioner/WBSEDCL contends that the respondent no. 1 was a beneficiary of a Mini Deep Tube Well, namely, Ambibatitaki MDTW.
3. As such, when the respondent no. 1 sought for a new electricity connection for operating his submersible pump, in view of the respondent no. 1 being a beneficiary of the previous connection, regarding which there are huge outstanding dues, the respondent no. 1 was asked to pay his share on such outstanding dues. For such reason, the West

Bengal State Electricity Distribution Company Limited refused to give such new electricity connection to the respondent no. 1.

4. The respondent no. 1, on the other hand, submits that the respondent no. 1 has no connection with the outstanding dues and had paid his shares for user of the particular MDTW which was used by the respondent no. 1. As such, there was no liability on the part of the respondent no. 1 to pay any amount of outstanding dues.
5. In support of such contention, the respondent no. 1 relies on the findings of the Ombudsman, where it was observed that even the Secretary of the said Ambibatitaki MDTW wrote to the effect that the respondent no. 1 was not a member of the same.
6. Upon hearing learned counsel, it transpires that the Ombudsman merely took into consideration the certificate issued by one Utpal Kumal Rout, the Secretary of the concerned Ambibatitaki MDTW to hold that the respondent no. 1 had no liability to pay the outstanding dues.
7. However, the effect of the letter dated September 15, 2021, issued by the Assistant

Engineer (A.I.), Belda Agri-Irrigation Sub-Division, Belda, Paschim Medinipur to the effect that the respondent no. 1 was one of the beneficiaries of the Ambibatitaki MDTW, was not considered.

8. Pitted against each other, neither of the two documents referred to above conclusively proves the liability or otherwise of the respondent no. 1 to pay outstanding dues, or whether the respondent no. 1 was actually a beneficiary of the previous MDTW, which left outstanding dues.
9. Hence, it would only be appropriate if the Ombudsman gives opportunity to the parties to establish the nexus or otherwise of the respondent no. 1 with the outstanding dues left by the concerned MDTW.
10. Accordingly, WPA No. 16631 of 2023 is disposed of by setting aside the impugned order and directing the Ombudsman to rehear the dispute.
11. While doing so, the Ombudsman shall give adequate opportunity of hearing and of production of documents to all the disputing parties, including the petitioner/WBSEDCL and the respondent no. 1.

12. Both such parties shall be at liberty to produce relevant documents to show that the respondent no. 1 was actually a beneficiary of the Ambibatitaki MDTW or not and, if so, whether the respondent no. 1 had cleared his dues in respect of the user in respect thereof.

13. The petitioner/WBSEDCL, on the other hand, shall have to produce documents and other proof to establish that the respondent no. 1 actually was a beneficiary and did not clear off his share of dues regarding the outstanding dues of the MDTW.

14. Upon such consideration, the Ombudsman shall decide afresh as to whether any dues are payable by the respondent no. 1 with regard to the outstanding dues in respect of Ambibatitaki MDTW. The entire exercise shall be concluded by the Ombudsman by February 29, 2024.

15. In the event it is held that the respondent no. 1 does not have any such liability regarding the outstanding dues, the respondent no. 1 shall be given a new electricity connection to operate his submersible pump upon compliance of all formalities by the respondent

no. 1, without paying anything in respect of the outstanding dues of MDTW.

16. However, if the Ombudsman holds the contrary, the respondent no. 1 shall have to clear off his dues before a new connection is given to him.

17. Receipt of service of notice and affidavit-of-service filed in court today be kept on record.

18. There will be no order as to costs.

19. 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.)