

03.09.2024
Sl. No.6(DL)
srm

W.P.A. No. 20725 of 2024
Hotel Sea Coast Private Limited
Versus
West Bengal State Electricity Distribution
Company Limited & Ors.

Mr. Srijib Chakraborty,
Mr. Aditya Mondal,
Mr. Washim Akthir Dafader

...for the Petitioner.

Mr. Sujit Sankar Koley

...for the WBSEDCL.

1. Affidavit-of-service is taken record.
2. The writ petition has been filed for reconnection of the supply and quashing of the bills issued, specifically bill dated July 4, 2024. In the said bill, an outstanding amount of Rs.8,51,740.89p. was found due and payable by the petitioner. Along with the said amount, a late payment surcharge (LPSC) of Rs.6,59,291.09p. was also imposed. The total outstanding dues of the petitioner is Rs.16,64,023/-. The petitioner submits that the old dues of 1995, 1998, etc. could not be claimed. It is contended that the subsequent bill was also claimed by adding late payment surcharge, when such payment could not be claimed.

3. Petitioner further submits that those dues were barred under the provisions of Section 56 of the Electricity Act, 2003. In addition to such contention, it is also submitted that the late payment surcharge could not be levied as the petitioner had not defaulted in payment of consumption charges. Finally, it is urged that in an earlier proceeding, some bills were challenged before the Chief Electrical Inspector which went up to the appellate authority and the appellate authority had upheld the bills. Such order of the appellate authority was set aside by a learned coordinate Bench of this Court. Thereafter, the authorities did not pursue the matter and ultimately started issuing bills to the petitioner claiming money for such periods, which were beyond previous two years.
4. Mr. Koley, learned Advocate for the West Bengal State Electricity Distribution Company Limited submits that altogether the petitioner's dues are more than Rs.24,00,000/-. The late payment surcharge had been claimed on the basis of the regulations. The outstanding dues have been reflected in each and every bill and the proviso to Section 56 of the Electricity Act would be applicable.
5. Admittedly, Section 56 of the Electricity Act, 2003 bars claiming of bills which could not be recovered, but the proviso

allows the electricity department to claim those outstanding dues which have been continuously reflected in the bills.

6. Relying on pages 38 to 59 of the writ petition, Mr. Koley submits that all dues were reflected continuously in the previous bills and finally on the bill dated July 4, 2024, such dues were demanded as current dues along with the current monthly charge.
7. Heard the learned Advocates for the respective parties. The proviso to Section 56 of the Electricity Act empowers the authorities to recover outstanding dues, provided those dues are reflected in the monthly bills. The monthly bills, which have been annexed to the writ petition, indicate that the dues were reflected. However, whether the amount claimed pertaining to the years 1995, 1996, etc. were covered by the earlier round of litigation in which the High Court passed an order, is a matter of evidence which is not available before this Court.
8. Clause 3.5 of Regulation 55/WBERC dated 7th August, 2013 deals with the procedure to be followed in case a billing dispute is lodged by the consumer. The grievance redressal officer is empowered to decide such dispute. From the order of the grievance redressal officer, the aggrieved party is entitled to approach the Ombudsman.

9. It is also a fact that the Hon'ble Apex Court has held in a number of decisions, that the outstanding dues which were not claimed or not reflected in the bills on account of mistake of the authority, could be claimed at a later stage, upon discovery of such mistake. However, for non-payment of such dues, disconnection could not be effected. In the case in hand, the petitioner submits that there are no dues, whereas the outstanding dues have been reflected all through. Further, the late payment surcharge has been claimed as per the regulations. There is a question as to whether the dues from 1995, 1997, 1998, etc. were reflected earlier or were unclaimed dues owing to a mistake or whether part of the dues were the subject matters of an earlier writ petition. This Court is of the view that for the purpose of reconnection, the petitioner cannot be directed to pay the entire amount, but a reasonable amount.
10. Under such circumstances, 50% of the outstanding dues as reflected in the bill dated July 4, 2024 shall be paid by the petitioner in two instalments. First instalment shall be paid within September 30, 2024 and along with reconnection charges and the reconnection shall be effected within 24 hours from receipt of the first instalment. Second instalment shall be paid within November 15, 2024. This payment shall be made

along with monthly charges to be raised upon such reconnection. If the petitioner pays the first instalment amount earlier, the authority will take immediate steps. In case of failure to pay the second instalment or the monthly bill the supply shall be disconnected, irrespective of the pending of the billing dispute.

11. With regard to the other outstanding dues, this Court is not expressing any opinion because the writ petition is restricted to the bill dated July 4, 2024. The adjudication of all the bills and the billing cycle of July, 2024, will be part of the proceeding before the grievance redressal officer.

12. The West Bengal State Electricity Distribution Company Limited shall send the records of the writ petition to the grievance redressal officer, Purba Medinipur within three weeks. The petitioner shall file the billing dispute within two weeks from date.

13. The writ petition is, thus, disposed of.

14. There shall be no order as to costs.

15. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)