

AD-11
Ct No.09
07.03.2024
TN

WPA No. 23796 of 2023

Seikh Idurjuha
Vs.
The West Bengal State Electricity Distribution Company
Ltd. and others

Mr. Bhagbat Chaudhuri,
Mr. Subrata Mukherjee

.... for the petitioner

Mr. Sujit Sankar Koley

.... for the WBSEDCL

- 1.** The affidavit-of-service and the receipt of service of notice filed today be kept on record.
- 2.** The petitioner is a consumer of electricity for operating his submersible pump.
- 3.** The West Bengal State Electricity Distribution Company Limited (WBSEDCL) raised exorbitant bills, according to the petitioner, for a previous period after the expiry of two years from the date of the due period, on the ground that there was faulty meter reading due to the mistake of the meter reader at the relevant point of time.
- 4.** The petitioner approached the Grievance Redressal Officer (GRO) challenging the quantum of the said amount. Having failed, the Ombudsman was approached. In both the forums the WBSEDCL admitted that it was due to faulty meter reading that

the additional amount could not be charged at the relevant point of time.

5. Learned counsel for the petitioner places reliance on an unreported judgment in *Seikh Abdul Aalim vs. The West Bengal State Electricity Distribution Company Ltd. and others* (WPA No. 202 of 2024) dated January 25, 2024 where this court had relied on the judgment of the Supreme Court in the case of *Ajmer Vidyut Vitran Nigam Limited and another vs. Rahamatullah Khan alias Rahamjulla*, reported at (2020) 4 SCC 650 for arguing that since the additional bill was raised after the expiry of the limitation period, the WBSEDCL cannot take recourse to disconnection for non-payment but have to make a proper money claim in a money suit.
6. Learned counsel for the WBSEDCL submits that since a claim has been raised and ample instalments have been given to the petitioner and as the right of the WBSEDCL to claim recovery of the money is not disputed in law, the petitioner be directed to pay the amounts as per instalments given by the Ombudsman.
7. In the present case, the petitioner raises objection even as to the quantum of the amount.
8. It has been rightly contended by the petitioner that in terms of *Ajmer Vidyut Vitran Nigam Limited* (supra) case, Section 56(2) does not preclude the licensee-

company from raising additional or supplementary demand after the expiry of the limitation period under Section 56(2) of the Electricity Act, 2003 in case of a mistake or *bona fide* error; however, it does not empower the licensee-company to take recourse to the coercive measure of disconnection of electricity supply for recovery of the additional amount. The appropriate remedy before the Distribution Licensee lies in recovery of the money from the petitioner by taking legal recourse to a money suit if the dues are not paid by the petitioner.

9. In such view of the matter, since the petitioner also disputes the quantum of the claim, the proper recourse of the WBSEDCL is to file a civil suit.
10. Accordingly, WPA No. 23796 of 2023 is disposed of by setting aside the impugned order of the Ombudsman and the RGRO and granting liberty to the WBSEDCL to claim the additional amount from the petitioner by way of a regular civil suit. If such a suit is filed, the period spent by the WBSEDCL in litigating before the RGRO, the Ombudsman and this court shall be deemed to be excluded from the limitation period for filing such suit, in the light of Section 14 of the Limitation Act, 1963.
11. It is made clear that the WBSEDCL shall be entitled to raise current bills and take recourse to law in case of non-payment by the petitioner of such bills.

However, in the current bills, in the garb of current electricity charges, the WBSEDCL cannot add the component of the additional claim which has been the subject-matter of the present challenge.

- 12.** There will be no order as to costs.
- 13.** 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.)