

AD-12
Ct No.09
07.03.2024
TN

WPA No. 23815 of 2023

Sk. Hasmat Ali
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.** Learned counsel for the petitioner contends that the West Bengal State Electricity Distribution Company Limited (WBSEDCL) charged exorbitant amounts as additional bill for a period prior to two years from the date of raising of the bills.
- 3.** Having disputed the same, the petitioner approached the Regional Grievance Redressal Officer (RGRO). Being aggrieved by the order of the RGRO, before whom the WBSEDCL admitted that there was faulty meter reading at the relevant period, the petitioner sought to approach the Ombudsman, who turned down the challenge of the petitioner because of the delay on the part of the petitioner in preferring the challenge.

4. It is argued that in terms of *Ajmer Vidyut Vitran Nigam Limited and another vs. Rahamatullah Khan alias Rahamjulla*, reported at (2020) 4 SCC 650, the WBSEDCL cannot disconnect electricity or take coercive measure if the bill for additional amount has been raised after the period of two years from the due date.
5. Hence, it is argued that the remedy before the WBSEDCL is a civil suit.
6. Learned counsel for the WBSEDCL submits that the WBSEDCL, as Distribution Licensee, has a right to make the claim even after the lapse of two years, in view of the judgment cited by the petitioner.
7. There is no doubt that the WBSEDCL can claim recovery of the amount-in-question but since the bill regarding the same was raised after the period of two years, that is, the statutory limitation under Section 56(2) of the Electricity Act, 2003, the WBSEDCL cannot take any coercive measure by disconnecting the electricity supply. Since the petitioner has raised a challenge to the quantum before the RGRO, it is apparent that the quantum is also disputed by the petitioner.
8. Thus, the writ court does not have any recourse but to relegate the parties to civil court.
9. Accordingly, WPA No. 23815 of 2023 is disposed of by setting aside the order of the Ombudsman and

the RGRO but granting liberty to the WBSEDCL to make the self-same money claim before the competent civil court having jurisdiction. If so approached, the time spent by the WBSEDCL in litigating before the RGRO, the Ombudsman and this court shall be excluded from the limitation period for the suit under the principle of Section 14 of the Limitation Act, 1963.

- 10.** 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 additional claim which has been the subject-matter of the present challenge.
- 11.** There will be no order as to costs.
- 12.** 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.)