

19.11.2024
Item No.134
gd/ssd

WPA/24905/2023
WEST BENGAL STATE ELECTRICITY
DISTRIBUTION COMPANY LIMITED
VS
SK. ABDUL KAIYUM AND ORS.

Mr. Srijan Nayak,
Ms. Rituparna Maitra
..for the Petitioner.

Mr. Saibal Kumar Acharyya,
Mr. Pradip Paul,
Ms. Renesa Dey
..for the Respondent No.1.

The affidavit-in-opposition filed by the respondent no.1 is taken on record.

The learned Advocate appearing for the parties uniformly submit that the issue involved in the writ petition is identical to the issue decided by this court in WPA 20729 of 2023 in the case of West Bengal State Electricity Distribution Company Limited v. Shukdeb Chaulya & Others by an order dated August 27, 2024.

The relevant portion of the order dated 27th August, 2024 passed in WPA 20729 of 2023 is extracted hereinafter:

“13. In the light of the aforesaid observation, the Ombudsman directed the licensing company to refund the excess amount realized from the respondent no.1 in connection with unmetered short term irrigation service connection for the year 2007- 2008 and 2008-2009. As rightly contended by Mr. Nayek, the Ombudsman did not adjudicate the quantum of excess amount

which is to be refunded to the respondent no.1 herein. Though the respondent no.1 herein in its claim for refund has stated the rate as mentioned in the Tariff Regulation as well as the period of consumption and the amount paid by him, it appears that the licensing company did not make any submission with regard to such contention of the respondent no.1 herein. However, the Ombudsman before directing refund of excess amount ought to have given an opportunity to the parties to advance their submissions in that regard.

14. In view thereof, this Court is of the considered view that the matter is to be remanded to the Ombudsman to decide only the issue as to the amount of refund which the respondent no.1 may be entitled to as per the relevant Tariff Regulation or any other rules or notification that may be applicable with regard to the unmetered short-term irrigation service connection.

15. The order(s) passed by the Ombudsman in case of other consumers is of no relevance as this Court has to test whether the order impugned suffers from any infirmity. WPA 20729 of 2023 is disposed of by directing the Ombudsman, being the respondent no.2 herein, to decide only the issue as to whether the respondent no.1 herein is entitled to any refund of amount allegedly paid in excess after giving an adequate opportunity to the licensing company and the consumer/respondent no.1 herein to place relevant materials in support of their respective claim and to take a decision by passing a reasoned order after affording an opportunity of hearing to the parties or their authorized representatives. The Ombudsman shall first fix a date for appearance of the parties before him for the purpose of placing relevant materials in support of their cases and shall thereafter proceed to decide the aforesaid issue as directed hereinbefore. The entire exercise shall be completed by the Ombudsman within a period of eight weeks from the date of receipt of the server copy of this order.”

WPA 24905 of 2023 is disposed of by directing the Ombudsman, being the 2nd respondent herein to decide only the issue as to whether the respondent no.1 herein is entitled to refund any of amount allegedly paid in excess after giving an adequate opportunity to the licensing company and the consumer/respondent no.1 herein to place relevant materials in support of their respective claim and to take a decision by passing a reasoned order after affording an opportunity of hearing to the parties or their authorized representatives. The Ombudsman shall first fix a date for appearance of the parties before him for the purpose of placing relevant materials in support of their cases and shall thereafter proceed to decide the aforesaid issue. The entire exercise shall be completed by the Ombudsman within a period of eight weeks from the date of receipt of the server copy of this order.

With the above observations and directions this writ petition stands disposed of.

The parties will be at liberty to communicate this order to the 2nd respondent.

There will be no order as to costs.

Urgent certified copy of this order, if applied for, be given to the learned advocates for the parties on usual formalities.

(HIRANMAY BHATTACHARYYA, J.)