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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 5625/2023 & CM APPL. 22029/2023**

MOHD. AFZAL & ORS.

.....Petitioners

Through: Ms. Surbhi Nandan, Mr. Vivek
Jaiswal and Mr. Arjun Kasana, Advs.

versus

STATE NCT OF DELHI & ORS.

.....Respondents

Through: Mr. Manish Kr. Srivastava, Mr.
Moksh Arora, Mr. Santosh Ramdurg
and Mr. Yash Srivastava, Advs. for
BYPL

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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29.08.2024

1. A perusal of the relief would indicate that the petitioner seeks for new electricity connection. It is also seen that the petitioner has not approached the Consumer Grievance Redressal Forum [“CGRF”] in terms of Section 42(5) of the Electricity Act, 2003.

1. This Court while dealing a similar controversy in W.P.(C). 2873/2022 titled as *Purandeep Singh v. BSES Yamuna Power Ltd.*, has relied upon the decision in W.P.(C) 10079/2004 titled as *Mr. Amrit Singh v. BSES Rajdhani Power Ltd. (BRPL)* and has held as under:-

1. This Court while dealing with a similar controversy and the analogous submissions in W.P.(C) 10079/2024, on 24.07.2024 has passed the following directions:-

“13. In the case of Maharashtra Electricity Regulatory



Commission v. Reliance Energy Ltd., the Supreme Court held that since the Act of 2003 has created CGRF, all the individual grievances of consumers have to be raised before such forum only. While affirming the decision passed by this Court in ***Suresh Jindal v. BSES Rajdhani Power Ltd. & Ors.*** and ***Dheeraj Singh v. BSES Yamuna Power Ltd.***, wherein, it was held that the CGRF and the Ombudsman has the authority to pass an interim order as well, the Supreme Court further held that Sections 42(5) and 42(6) provide a complete machinery for redressal of grievances of the consumers. The Supreme Court in the said case remitted the matter back to the CGRF for adjudication on merits. The relevant paragraphs of the decision in ***Reliance Energy (supra)*** are extracted as under:-

“33. As per the aforesaid provision, if any grievance is made by a consumer, then they have a remedy under Section 42(5) of the Act and according to sub-section (5) every distribution licensee has to appoint a forum for redressal of grievances of the consumers. In exercise of this power the State has already framed the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Ombudsman) Regulations, 2003 (hereinafter referred to as “the 2003 Regulations”) and created Consumer Grievance Redressal Forum and Ombudsman. Under these 2003 Regulations a proper forum for redressal of the grievances of individual consumers has been created by the Commission. Therefore, now by virtue of sub-section (5) of Section 42 of the Act, all the individual grievances of consumers have to be raised before this forum only. In the face of this statutory provision we fail to understand how could the Commission acquire jurisdiction to decide the matter when a forum has been created under the Act for this purpose. The matter should have been left to the said forum. This question has already been considered and decided by a Division Bench of the Delhi High Court in *Suresh Jindal v. BSES Rajdhani Power Ltd.* [(2006) 132 DLT 339 (DB)] and *Dheeraj Singh v. BSES Yamuna Power Ltd.* [Ed. : (2006) 127 DLT 525 (DB)] and we approve of these decisions. It has been held in these decisions that the forum and ombudsman have power to grant interim orders. Thus a complete machinery has been provided in Sections 42(5) and 42(6) for redressal of grievances of individual consumers. Hence wherever a forum/ombudsman have been created the consumers can only resort to these bodies for redressal of their grievances. Therefore, not much is required to be discussed on this issue. As the aforesaid two decisions correctly lay down the law when an individual consumer has a grievance he can approach the forum created under sub-section (5) of Section 42 of the Act.



34. *In this connection, we may also refer to Section 86 of the Act which lays down the functions of the State Commission. Sub-section (1)(f) of the said section lays down the adjudicatory function of the State Commission which does not encompass within its domain complaints of individual consumers. It only provides that the Commission can adjudicate upon the disputes between the licensees and generating companies and to refer any such dispute for arbitration. This does not include in it an individual consumer. The proper forum for that is Section 42(5) and thereafter Section 42(6) read with the Regulations of 2003 as referred to hereinabove.”*

[emphasis supplied]

14. *Notably, the decision of this Court in the cases of **Abhijit Anand v. Chairman Delhi Electricity Regulatory Commission** and **Ashok Yadav v. BSES Rajdhani Power Limited** also aid to the similar position of law as has been rendered in the case of **Ram Kishan (supra)**.*

15. *It is thus safely discernible from the aforementioned decisions that the submissions which have been made by the petitioner in the instant petition can also be looked into by the concerned authority which is provided under the Act of 2003.*

16. *In view of the aforesaid, leaving all contentions open to be raised before the appropriate authority, the Court is not inclined to entertain the instant petition and the same is dismissed alongwith pending applications.”*

2. *The aforesaid view is expressed keeping in mind the legislative intent behind the drafting of Article 226 of the Constitution of India. The legislative scheme behind the Article 226 of the Constitution of India would reveal that if the writ Court starts delving into issues relating to electricity connection, water supply connection, road construction etc., wherein, an alternate and equally efficacious remedy is readily available, the Court would be flooded with such cases and such an exposition would open the pandora’s box.*

3. *The Court can certainly entertain a writ petition depending upon the nature of the grievance and other aspects thereto, however, writ being discretionary jurisdiction, it will have to be exercised sparingly and judiciously. Astonishingly, nowadays writ Courts are bombarded with the petty issues which can very well be resolved by taking recourse to the alternate mechanism. At the threshold, the petitioner must satisfy*



as to why writ must be entertained, notwithstanding the alternate remedy being available. Incautious approach in entertaining such petitions in writ jurisdiction, results in a vicious circle of dates and

adjournments in other cases.

4. In view of the aforesaid, the Court is not inclined to entertain the instant petition and is accordingly dismissed.”

2. The Court in paragraph Nos.6 to 8 of W.P.(C) 2873/2022 has held as under: -

“6. The aforesaid view is expressed keeping in mind the legislative intent behind the drafting of Article 226 of the Constitution of India. The legislative scheme behind the Article 226 of the Constitution of India would reveal that if the writ Court starts delving into issues relating to electricity connection, water supply connection, road construction etc., wherein, an alternate and equally efficacious remedy is readily available, the Court would be flooded with such cases and such an exposition would open the pandora’s box.

7. The Court can certainly entertain a writ petition depending upon the nature of the grievance and other aspects thereto, however, writ being discretionary jurisdiction, it will have to be exercised sparingly and judiciously. Astonishingly, nowadays writ Courts are bombarded with the petty issues which can very well be resolved by taking recourse to the alternate mechanism. At the threshold, the petitioner must satisfy as to why writ must be entertained, notwithstanding the alternate remedy being available. Incautious approach in entertaining such petitions in writ jurisdiction, results in a vicious circle of dates and adjournments in other cases.

8. In view of the aforesaid, the Court is not inclined to entertain the instant petition and is accordingly dismissed.”

8. It is thus seen that the nature of the grievance which is sought to be agitated in the instant case, can be redressed before the Consumer Grievance Redressal Forum in terms of Section 42(5) of the Electricity Act, 2003, if the petitioner approaches the said Authority.

9. The Court, therefore, is not inclined to keep this petition pending on



its Board and instead grants liberty to take alternative recourse in accordance with law.

10. The petition stands disposed of.

PURUSHAINDRA KUMAR KAURAV, J

AUGUST 29, 2024/p