

13.01.2025
Item No.4
gd/ssd

FMA/446/2023
SUDARSAN MAITY
VS
WEST BENGAL STATE ELECTRICITY
DISTRIBUTION COMPANY LIMITED AND ORS.
IA NO: CAN/1/2023

Mr. Soumen Dutta,
Mr. Rahul Banerjee
..for the Appellant.

Mr. Srijan Nayak,
Ms. Rituparna Maitra
..for WBSEDCL.

1. This intra court appeal filed by the writ petitioner is directed against the order dated 24th February, 2023 in WPA 2007 of 2023.

2. In the said writ petition the appellant had challenged an order of final assessment passed by the Assessing Officer and Station Manager, Marishda Customer Care Centre dated 09.01.2023.

3. The assessment has been made at best by judgment basis and the appellant has been made liable to pay a sum of Rs.7,19,823.00 for unauthorized use of electricity by means of parallel hooking for meter bypassing in his commercial fishery premises.

4. The learned advocate appearing for the appellant would vehemently contend that the allegation is absolutely wrong and in the objection given by the appellant he has never admitted the guilt.

5. In this regard, the objection submitted on 09.01.2023 was referred to by the learned advocate for the appellant.

6. We have heard the learned advocate appearing for the respondents on the above submission.

7. The issue as to whether there has been unauthorized use of electricity by means of parallel hooking for meter bypassing the commercial fishery premises is a question of fact to be established by the appellant.

8. Therefore, a writ court cannot adjudicate this disputed question of fact and the appellant is not remediless as an appeal is provided for to the appellate authority as per the provisions of Section 127 of the Electricity Act, 2003.

9. Therefore, we are of the view that the appellant should exhaust the appellate remedy available under the Act and the writ petition is not the appropriate remedy.

10. The learned writ court while dismissing the writ petition directed payment of cost of Rs.5,000/-.

11. Considering the facts and circumstances, we delete the cost which has been imposed and also any factual finding which are rendered by the learned Single Bench to dismiss the writ petition also stands deleted.

12. The appellant is entitled to raise all factual and legal grounds before the appellate authority.

13. The time for filing the appeal is extended by a period of 30 days from the date of receipt of the server copy of this order and if the appeal is presented before the appellate authority within the time permitted, the appeal should not be dismissed on the ground of limitation but should be heard and decided on merits in accordance with law and a reasoned order be passed.

14. Accordingly, the appeal stands disposed of.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)