

WPA 5024 of 2012

Pranab Kumar Karmakar
Vs.
The West Bengal State Electricity Distribution
Company Limited & Ors.

Mr. Dhrubojyoti Ghosh
Mr. Somnath Maiti
.... for the petitioner

Mr. S. S. Koley
..... for the WBSEDCL

1. The petitioner is aggrieved by the final order of assessment passed by the Appellate Authority on December 12, 2011.
2. The short facts of the case are that the petitioner was alleged to be involved in illegal usage of electricity by way of hooking.
3. The petitioner was using a connection, which was in the name of his brother.
4. He had applied for a separate connection and during inspection, it was found that he was involved in theft of electricity. A provisional assessment bill of Rs.3,63,880/- was issued by the respondent authority, which the petitioner carried in appeal, upon deposit of 50% of the aforestated amount, approximately Rs.1.81 lakhs.

5. The Appellate Authority, in its order of December 12, 2011, has considered all facts and has come to a final decision that in view of tapping of the electricity resulting in theft thereof, the petitioner was liable to pay the entire amount. However, the Appellate Authority had reduced the hours of usage of electricity from 24 to 23.
6. It is this order of the Appellate Authority which has been assailed in the present writ petition.
7. Mr. Ghosh, learned Advocate appearing for the petitioner, submits that the order of the Appellate Authority has been passed without taking into account several factual issues and does not hold any valid or cogent reason in the conclusion.
8. He further submits that the order is based on certain surmises which do not have any factual basis.
9. Mr. Koley, learned Advocate appearing for the respondents no. 1 to 3, submits that even though the respondents had obtained a direction for filing affidavits, he is presently not inclined to use any affidavit.
10. He further submits that the petitioner has himself admitted that he was “taking” electricity from his brother’s connection, which, therefore, tantamounts to admission of theft of electricity.

11. I have heard the learned Advocates for the parties and considered the documents on record.
12. This Court while exercising jurisdiction under Article 226 of the Constitution of India is in judicial review and cannot sit in appeal over the order passed by an Appellate Authority. The reasoning given by the Appellate Authority in reaching the conclusion in the impugned order is based on several factual instances, which cannot be gone into by this Court in judicial review.
13. It has not been argued that the order of the Appellate Authority is bereft of reasoning. The argument is that the reasoning is not sound. In judicial review the Court will not go into the correctness or validity of the reasons given by the concerned Authority, in this case the Appellate Authority.
14. There are also several disputed questions of facts, which have been raised by the petitioner, which cannot be adjudicated in the present matter.
15. In view of the aforestated, I am not inclined to interfere with the order passed by the Appellate Authority.
16. Thus, the writ petition being W.P. 5024(W) of 2012 is dismissed.
17. There shall, however, be no order as to costs.

18.Urgent photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Reetobroto Kumar Mitra, J.)