

M.A.T. 431 of 2019

**West Bengal State Electricity
Distribution Company Limited & Ors.
Vs.
Biren Mondal**

Mr. Srijan Nayak,
Mr. Saurav Chaudhuri

...for the WBSEDCL

1. Heard the learned counsel for the appellant.
2. In support of the intra court appeal. By the order dated 04.10.2018, the writ court has directed as follows:

“The petitioner has filed the instant writ petition for a direction upon the respondent authority, particularly upon the Distribution Company to forthwith take step for replacement of the defective meter.

Mr. Dutta learned advocate appearing for the petitioner submits that it is evident from the receipt dated 16th July, 2018 of the Distribution Company that the meter is a defective one.

That being the scenario, I direct the Distribution Company to forthwith take step for removal of the defective meter from the petitioner’s irrigation place thereby installing a new meter.

For removal of the defective meter and/or instalment of a new meter the petitioner shall pay the requisite charges. The Distribution Company is directed to raise bill regarding cost for removal of the defective meter and installation of a new meter to the petitioner’s irrigation place by 12th October, 2018. Immediately after

receiving such bill the petitioner shall make payment of the entire amount including other admissible charges. The entire exercise shall be completed by 31st October, 2018.

With these directions the instant writ petition is disposed of without any order as to costs.

Photostat Certified copy of this order, if applied for, be supplied to the learned advocates appearing for the parties expeditiously on compliance of all requisite formalities.”

3. The learned counsel for the appellant submits that an appeal has been filed keeping in view the provisions contained in Regulation 13.9 and Regulation 3.4.2. The two Regulations read :

“13.9 For getting new connection for supply of electricity from a licensee an intending consumer shall be required to pay all outstanding dues to the licensee in respect of any other service connection held in his/her name located in the area of supply of the same licensee and he/she shall also be responsible for payment of outstanding charges calculated in a prorated manner, if it is established that he/she has had a nexus with the previous consumer(s) including the purchaser/the new lessee/the new tenant of a property or a portion thereof in respect of which there are outstanding charges and/or who has/had benefited from non-payment of the aforesaid outstanding dues by the previous consumer(s) to the licensee.”

“3.4.2 The licensee shall be eligible to recover from a new and subsequent consumer(s) the dues of the previous and defaulting consumers in respect of the same premises only if a nexus between the previous and defaulting consumer(s) and the new consumer(s) in respect of the same premises is proved. The onus of proving a nexus, if claimed by a licensee, shall lie on the licensee.”

4. We do not see how the two provisions being referred to by the learned counsel for the appellant are relevant and material to the issue which has been decided by the writ court.
5. The learned counsel for the appellant submits that Electricity Company should be at liberty to make recoveries of dues.
6. The issue sought to be raised has not been considered by the writ court and therefore, we consider it inappropriate to make any observation with regard to this submission.
7. The appeal is accordingly disposed of.
8. There will be no order as to costs.
9. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)