

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

HEARD ON: 19.02.2025

DELIVERED ON: 19.02.2025

**CORAM:
THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)**

**M.A.T. 926 OF 2023
With
I.A. No. CAN 1 of 2023
With
I.A. No. CAN 2 of 2024**

**Sunil Das
Vs.
The West Bengal State Electricity
Distribution Company Limited & Ors.
With
M.A.T. 927 OF 2023
With
I.A. No. CAN 1 of 2023
With
I.A. No. CAN 2 of 2024**

**Md. Abdul Matin
Vs.
The West Bengal State Electricity
Distribution Company Limited & Ors.
With
M.A.T. 928 OF 2023
With
I.A. No. CAN 1 of 2023
With
I.A. No. CAN 2 of 2024**

**Azad Ali & Ors.
Vs.
The West Bengal State Electricity
Distribution Company Limited & Ors.
With**

**M.A.T. 929 OF 2023
With
I.A. No. CAN 1 of 2023
With
I.A. No. CAN 2 of 2024**

**Md. Azharuddin @ Azheruddin
Vs.
The West Bengal State Electricity
Distribution Company Limited & Ors.
With
M.A.T. 930 OF 2023
With
I.A. No. CAN 1 of 2023
With
I.A. No. CAN 2 of 2024**

**Gurucharan Ojha
Vs.
The West Bengal State Electricity
Distribution Company Limited & Ors.**

Appearance:-

**Mr. Saikat Roy Chowdhury
Mr. Aritra Ghoshfor the appellants**

**Mr. Srijan Nayak
Mr. S.S. Koley
Ms. Rituparna Maitrafor the WBSEDCL**

**Mr. Biswabrata Basu Mallick
Ms. Parna Roy Chowdhuryfor the State in
M.A.T. 927 of 2023
M.A.T. 928 of 2023
M.A.T. 929 of 2023
M.A.T. 930 of 2023**

**Ms. Jyotsna Roy Mukherjee
Ms. Srijani Mukherjeefor the State in
M.A.T. 926 of 2023**

**Mr. Om Narayan Rai
Mr. Debanjan Mukherjeefor the respondent no. 3 in
M.A.T. 929 of 2023**

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNANAM, C.J.)

1. These intra-Court appeals are directed against the common judgment and order dated April 18, 2023 passed in a batch of cases. In all the writ petitions, the challenge was thrown to the vires of sections 126 and 135 of the Electricity Act, 2003. Apart from that, one of the prayers was to quash the charge-sheet filed in the criminal proceedings initiated against the appellants/writ petitioners.
2. The learned Single Bench after taking note of the various decisions of the Hon'ble Supreme Court and the other Hon'ble High Courts including the decision of the Hon'ble Division Bench of the High Court of Gujarat in the case of *Ranchhod Bhai v. Union of India* in which the vires of sections 136 and 135 of the Act was upheld, dismissed the writ petitions.
3. Learned advocate appearing for the appellants would fairly submit that in these appeals, the appellants would accept that the said statutory provisions are *intra-vires* the statute. In other words, the appellants give up their challenge to the vires of the statutory provisions and would accept the judgment of the learned Single Bench. However, the learned advocate for the appellants would contend that the final assessment orders passed against the appellants have been tested for their correctness. Therefore, necessary opportunity should be granted to the appellants to challenge the correctness of the final assessment orders passed by the authorities.
4. As could be seen from the prayers sought for in the writ petitions, there was no specific challenge to the final assessment orders. Therefore, the learned writ Court cannot be faulted for not testing the correctness of the final assessment orders. Therefore, it is the appellants, who have to be blamed for not having put a challenge to the final assessment orders on merits. Apart from that, we need to point out that prayer to quash a

charge-sheet initiated pursuant to a criminal complaint is also not maintainable. Therefore, the learned Single Bench was fully justified in dismissing the writ petitions in their entirety and we find no ground to interfere with the impugned order.

5. However, since the correctness of the final assessment orders should be permitted to be canvassed by the appellants before an appropriate forum and the appellants cannot be left remediless, we are of the view that the appellants should be granted liberty to file statutory appeals before the appellate authority questioning the correctness of the final assessment orders on the merits of the matters and not on the grounds, which were canvassed in the writ petitions.
6. Accordingly, the appeals are dismissed and liberty is granted to the appellant to file statutory appeal challenging the correctness of the final assessment order passed against each of them and if such appeal is filed within 30 days from the date of receipt of server copy of this judgment and order and also after complying with the pre-deposit condition, then such appeal shall be entertained without rejecting the same on the ground of limitation and the appeal shall be heard and disposed of on merits and in accordance with law after affording an opportunity of personal hearing to the appellants or their authorised representative.
7. Needless to mention, the appeal should be presented in proper form and it will be entertained subject to compliance of the statutory provisions for the purpose of entertaining the appeal.
8. It is made clear that this liberty is being granted considering the peculiar facts and circumstances of the case and shall not be treated as a precedent.

9. No costs.
10. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(CHAITALI CHATTERJEE (DAS), J.)