IN THE HIGH COURT OF ORISSA AT CUTTACK
WA No.1837 of 2025

Ranjan Kumar Sahoo	....	***Appellant***
		Mr. Suresh Chandra Dash, Advocate
	-versus-	
Superintending Engineer (Electrical)-II, TPCODL, Jagatsinghpur and another	....	***Respondents***

CORAM:
THE HON'BLE THE CHIEF JUSTICE
AND
THE HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

ORDER
11.12.2025

Order No.

01. 1. The instant appeal at the behest of the consumer of the electricity challenging the order dated 14th October, 2025 passed by the Single Bench in WP(C) No.25030 of 2025, whereby and whereunder the liberty was granted to the appellant to move the appellate authority as the final assessment order under Section 126 of the Electricity Act, 2003 (for short, "the Act") has already been passed.

2. The appellant all along took a plea that a notice under Section 135 of the Act was issued and the order passed under Section 126 of the Act is infirm and invalid as it is an outcome of denial of an adequate opportunity of hearing. Section 135 of the Act, which contained in Part-XIV of the Act is relatable to the offences and penalties concerning the theft of electricity.

2.1. It is manifest from the language used in the said provision that whoever dishonestly taps or makes or tampers any meter by use of any device or by installing any apparatus or the equipment shall

expose himself for being punished by way of an imprisonment for a term which may extend to three years or with fine or both. It further provides an immediate disconnection of the supply of electricity for a limited period and also the power of the licensee or the supplier as may be authorized by the State Government to enter by breaking open the padlock or can make search at the premises if they have reason to believe that the electricity supply thereat has been or being used unauthorizedly. It also provides that in the event any search or seizure is made, before any proceeding is initiated under sub-section (1) thereof, a copy of the seized documents shall be handed over to the person, from whom the same has been seized or who was present at the time of such seizure. The said provision is a charging section bringing criminal offences in relation to a theft of electricity and punishable upto the term of three years or fine or both. Apart from the said provision, it also attracts the civil liability under Part-XII of the Act, which contains several provisions relating to investigation and enforcement. Section 126 of the Act empowers the authority mentioned therein to assess the amount of pilferage or theft of electricity and realize the same by using the procedure as contemplated therein. Such assessment, which attained finality is amenable to be challenged before the appellate authority under Section 127 of the Act.

2.2. Though the writ petition was filed by the appellant challenging the notice under Section 135 of the Act, in course of hearing, it was brought to the notice of the Court that the final assessment order has been passed and, therefore, the Court refuses to exercise the discretion in entertaining the issues as all the pleas, which are taken in the writ petition, if taken before the appellate authority, can be conveniently adjudicated upon by the appellate authority.



3. We are conscious of the proposition that there is no absolute bar in entertaining the writ petition despite an alternative remedy provided in the statute. However, the Court has imposed a self-restraint in entertaining the writ petition if the alternative statutory remedy is provided in the relevant law. It is a rule of discretion than of compulsion. The Court may refuse to entertain the plea raised in the writ petition in the event the Court finds that the same can be raised before the statutory forum and if such discretion is exercised, the writ Court should be more conscious and circumspect in interfering with the said order in appeal. The appellate Court should not interfere with such discretionary order unless the said order is tainted with infirmity and/or illegality or wrong exercise of discretion, which cannot withstand on the Wednesbury principle. The moment the Court finds that the discretion exercised by the Single Bench is based upon the sound logic or on legal principles, such order should not be interfered by the appellate Court.

4. There is another aspect which cannot be overlooked in the instant appeal. Undeniably, the order of final assessment was handed over to the counsel for the appellant at the time of disposal of the said writ petition, but instead of moulding the relief or approaching the proper forum, the said final order is challenged in the writ appeal, which would be evident from the prayer(s) made herein. It is not open to the litigant to jump the forum or adopt a forum by convenience in challenging the order, which is otherwise amenable to be challenged before a forum provided therefor. The Court deprecates the attempt made by the litigant in choosing the forum of his convenience and such litigant must be dealt with stern hand.

4.1. Though we do not appreciate the manner in which the instant appeal has been filed and the relief sought for, we feel that once the Single Bench has refused to exercise the discretion and relegated the appellant to exhaust the remedy provided in the statute, we do not intend to make any further comment as it may impact the adjudication by the appellate forum provided in the said statute.

5. We, thus, do not find any infirmity and/or illegality in the discretion exercised by the Single Bench in relegating the appellant to the statutory forum. The instant appeal, sans merit, is dismissed. As a result of disposal of the writ appeal, pending Interlocutory Application(s), if any, stand disposed of.

(Harish Tandon)
Chief Justice

(M.S. Raman)
Judge

MRS/Laxmikant

Signature Not Verified
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Signed by: LAXMIKANT MOHAPATRA
Designation: Senior Stenographer
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 12-Dec-2025 16:32:27