

06.05.2026
Court No. 12
Item No. 06
Sandip

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

M.A.T. 591 of 2026
IA No : CAN 1 of 2026
In
W.P.A. 25648 of 2025

Delwar Hossain
-Versus-

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

Mr. Bhagbat Chaudhuri,
Ms. Mallika Manna
.....for the appellant
Mr. Sujit Sankar Koley
....for the WBSEDCL.
Mr. Raja Saha,
Mr. Sanjay Mukherjee
..... for the Ombudsman.

- 1) The appellant is a consumer of agricultural connection, which was effected to his submersible pump by the West Bengal State Electricity Distribution Company Limited (WBSEDCL).
- 2) WBSEDCL and its officers preferred the writ petition being W.P.A. 25648 of 2025 challenging the order dated November 21, 2024 passed by the Ombudsman under Section 42 (7) of the Electricity Act, 2003.
- 3) The case of the WBSEDCL was that, in February 2018, the meter had been installed in the name of the appellant in respect of STW connection. Average bills were raised as the meter could not be accessed. At the relevant point of time, due to mass protest by the villagers and other disturbances faced by the meter reader in respect of STW connections,

readings could not be taken on actual consumption. Accordingly, the regulations were followed and average bills were raised.

4) Finally, it was decided by WBSEDCL that, meter reading would be taken as per the actual consumption. In the circumstances, WBSEDCL raised bills as per the meter reading and raised a bill in October 2021, which included amounts in excess of the average billing, on the accumulated units, which had not been claimed in those average bills, but were payable against actual consumption.

5) Aggrieved by the bill, the appellant filed a complaint before the Regional Grievance Redressal Officer, Murshidabad Region, WBSEDCL.

6) Upon considering the records and upon hearing the parties, it was held by the RGRO that bills were not raised as per the units consumed. The cost of the accumulated units were not paid by the consumer. As the consumer had utilized electricity, the claim by the WBSEDCL was found to be bona fide. Relying on a decision of the Hon'ble Apex Court, it was opined that the restriction under Section 56(2) of the Electricity Act, 2003 was introduced to protect a bona fide consumer from paying arbitrarily raised bills. The distribution company was allowed to raise supplementary bills upon discovery of mistake in the bills or by claiming payment for consumed/accumulated units, which could not be billed on account of either resistance or lack of access to the meter etc. Thus, the RGRO held that the demand of WBSEDCL was justified.

7) Aggrieved by the order passed by the RGRO, the appellant filed a complaint before the Ombudsman. The Ombudsman prepared a draft settlement order and thereafter, by a final order dated November 21, 2024, set aside the bill of October 2021 which carried a claim of Rs. 2,58,493/- on account of unpaid units that were consumed and not billed. According to the Ombudsman, the regulations provided that the bill for October 2021 should be raised as per the consumption of the same month, for the corresponding year, that is, October 2022. The Ombudsman directed as follows :

“13. Hence, in terms of Clause 10.5 of Regulation 56WBERC dated 26.08.2013 Final Order is issued as follows :-

a) That, in terms of Clause 3.5 of Regulation 55WBERC dated 07.08.2013, the A.P. shall make payment of Rs. 20,000/- on provisional basis within 30 days from the date of receipt of this order and that the Licensee shall accept the same without raising any objection whatsoever in this regard.

b) That, on receipt of the provisional payment, the OP i.e. W.B.S.E.D.C.L. (the Licensee) shall cancel the disputed bill of October 2021 and regenerate the same on the basis of actual consumption for the corresponding month of the succeeding year without claiming any LPSC, after adjustment of all the payment made by the A.P. during the intervening period.

c) That, the licensee shall monitor the regular meter reading and arrange to send the monthly electricity bill to the A.P. as per the actual consumption recorded in the meter and that the Appeal Petitioner shall continue to pay the current electricity bills regularly and OP shall accept the same without raising any objection whatsoever in this regard and without claiming any LPSC.

d) That, the case is thus, finally disposed of.”

8) This order was challenged before the writ Court by the WBSEDCL on the ground that, the direction to raise the bill for October 2021 only on the basis of the consumption of October 2022, was erroneous. This amounted to depriving the WBSEDCL from claiming the legitimate amount on the actual consumption by the appellant. The consumption for the month of October 2022 was 0 units and as such, the same could not be the yardstick for calculation of the accumulated units. Thus, the Ombudsman made a mistake in holding that the amount claimed in the bill of October 2021 was actually the consumption for October 2021, and failed to appreciate that the bill was for unpaid dues of earlier periods. The Ombudsman wrongly directed that, for the bill of October 2021 the consumption of October 2022 should be the basis for the amount to be paid by the appellant, by ignoring the regulation.

9) The learned Single Judge was of the view that the Ombudsman has failed to apply the regulation and had directed regeneration of the bills on the basis of the bill for October 2021 and on the actual consumption for October 2022.

10) Regulation 3.7 of the WBERC permitted the distribution company to raise the bill provisionally on an average basis, in case of inaccessibility to the meter and subsequently raise supplementary bill on the basis of accumulated units upon adjusting the amount paid.

11) Under such circumstances, the learned Judge set aside the order of the Ombudsman and directed the appellant to pay the bills raised by the distribution company in 12 equal monthly instalments. The first of such instalment would commence from March 2026. No LPSC could be claimed by the WBSEDCL as directed by His Lordship.

12) The accumulated units for the period between August 2021 to June 2024 had not been claimed. The same is payable by the consumer. The consumption pattern varies with the season. Thus, the unpaid amount between August 2021 and June 2024 in respect of unbilled accumulated units, shall be raised as per the actual meter reading between August 2025 and June 2026 by way of a supplementary bill.

13) We had directed the WBSEDCL to produce the entire consumption pattern from the date of installation of the meter and we find that during the period when average bills were raised, units had been consumed, but all of those units were not billed. Thus, the claim for the unpaid bill is not illegal. The Ombudsman also recognized that the appellant had the duty to pay the unpaid amount, but had made a mistake in appreciating that the bill for October 2021 was not a bill for a single month and therefore, the consumption for October 2022, could not be the sole criteria for regenerating the bill for October, 2021.

14) Under such circumstances and with the above modification of the order of His Lordship, the appeal is disposed of. The unpaid consumption bill will be raised as directed by

this Court and served upon the appellant, by providing 12 equal monthly instalments. Accordingly, the bills will be paid within the date to be reflected against each of the instalment and in the event the bills are paid, no coercive action shall be taken.

15) In case of default in payment of any instalment, the WBSEDCL will be at liberty to act in accordance with law.

16) The learned Judge rightly held that LPSC could not be claimed, as bills were not raised at the relevant time.

17) Under such circumstances, the appeal and the application are disposed of.

18) The provisional amount already paid shall be adjusted.

19) Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings. The order impugned is set aside.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)