16.11.2026
Court No. 12
Item No.03
Cp

FMA 691 of 2026
With
CAN 1 of 2026

Abdul Motin Mallick
Vs.
The West Bengal State Electricity Distribution Company Limited & Ors.

Mr. Md. Nure Zaman
Mr. Jahangir Badsha
...for the appellant.

Dr. Madhusudan Saha Ray
Mr. Debanjan Chatterjee
.....for the WBSEDCL.

1. The present intra-court appeal is directed against an order dated April 17, 2026, passed by the learned Single Judge in WPA 6866 of 2026.
2. By that order, the writ petition was dismissed. The writ petitioner/appellant happens to be a consumer of electricity vide Consumer ID No.516040314. On an allegation that he defaulted in making payment of electricity charges of Rs.89,703.52, the electricity supply was disconnected on July 27, 2018. On January 14, 2021, upon inspection it was found that the appellant had illegally reconnected the electricity supply without consent of the West Bengal State Electricity Distribution Company Limited (WBSEDCL). The electricity supply was used for operating a submersible pump. Consequently, an FIR was lodged and order of final assessment of

Rs.2,47,240.00 was issued to the appellant. However, despite receipt of such final assessment order, the appellant did not pay the sum. Subsequently, the appellant approached the authority for availing the benefit under a Waiver Scheme and accordingly, he obtained waiver of Rs.1,58,563.00. In 2025, during another inspection it was found that the appellant again reconnected the electricity supply without consent of the WBSEDCL and again an FIR was lodged which was registered as Purbasthali P.S. Case No.103/2025. Subsequently, provisional assessment was made and provisional assessment order requiring the appellant to pay an amount of Rs.6,85,810.00 was issued.

3. The specific grievance ventilated in the present writ petition by the appellant is that immediately after receipt of the provisional assessment order he submitted a written objection in terms of Sub-Section (3) of Section 126 of the Electricity Act, 2003 (hereinafter referred to as 'the 2003 Act'). However, despite receipt of such written objection, no opportunity of hearing was afforded to the appellant and a final assessment order was passed calling upon the appellant to pay Rs.6,85,810.00

4. Mr. Md. Nure Zaman, learned advocate representing the appellant, submits that the authority could not ascertain the period of alleged

unauthorized use. Therefore, the period of unauthorized use assessment should have been limited to the 12 months immediately preceding the date of inspection. He submits that the statutory requirements have not been complied with and the authority arrived at an erroneous calculation of the final assessment amount. He prays that the appellant may be permitted to deposit half of the amount as provisionally assessed by the authority and the electricity supply to the appellant's submersible pump may be restored.

5. In response, Dr. Saha Roy, learned advocate representing the WBSEDCL, submits that on the allegation of theft of electricity a criminal case was started against the appellant and this was the second offence committed by the appellant. Therefore, before taking any final decision on this appeal the appellant's conduct should be taken into consideration.

6. However, WBSEDCL is not in a position to place any notice issued by the authority, whereby, the appellant was called upon to attend any hearing before the final assessment was made. After receipt of the written objection from the appellant under Sub-Section (3) of Section 126, the appellant should have been called for a hearing. Therefore, the final order was passed in total

disregard to the principles of natural justice. As per the statutory mandate incorporated in Sub-Section (3) of Section 126 of the 2003 Act, the appellant should have been heard.

7. In view of the above, the final order of assessment cannot be sustained and the same is accordingly set aside. The law does not permit re-connection upon deposit of 50% of the finally assessed amount. Thus, such prayer is refused.

8. The order impugned is also set aside on the ground that the learned Single Judge failed to take into consideration that the final order of assessment was passed in violation of the principles of natural justice and without taking into consideration the written objection submitted by the appellant on April 8, 2025.

9. The respondent no. 5 is directed to afford an opportunity of hearing to the appellant in the mode and manner prescribed in Sub-Section (3) of Section 126 of the 2003 Act and pass necessary order, in accordance with law. While doing so, all the objections of the appellant shall be considered, including the issue of acquittal in respect of the first offence as also the waiver that was granted. The mode of calculation should be as per the provisions of law. The period of unauthorized use should also be on the basis of the statutory provision.

10. Accordingly, the appeal and the connected application are disposed of without however any order as to costs.

11. Urgent photostat certified copy of this order if applied for, shall be given to the parties upon complying with all the requisite formalities.

(Shampa Sarkar, J.)

(Partha Sarathi Chatterjee, J.)