
(2010) 08 CAL CK 0046
In the Calcutta High Court
Case No : Writ Petition No. 16053 (W) of 2010

Abul Hossen Mallick

APPELLANT

Vs

West Bengal State Electricity Distribution Co. Ltd. and Others

RESPONDENT

Date of Decision : 02-08-2010

Acts Referred:

Constitution of India, 1950 — Article 226
Electricity Act, 2003 — Section 126, 127

Citation : (2010) 08 CAL CK 0046

Hon'ble Judges : Jayanta Kumar Biswas, J

Bench : Single Bench

Advocate : Sambhu Nath Roy and M.M. Bhattacharyya, for the Appellant;

Judgement

Jayanta Kumar Biswas, J.—The petitioner in this Article 226 petition dated July 28, 2010 is questioning an order dated July 8, 2010 (at p.29) of the Appellate Authority u/s 127 of the Electricity Act, 2003.

2. Questioning the order of provisional assessment dated March 20, 2010 (at p.26) the petitioner previously moved W.P. No. 6694(W) of 2010 under Article 226. By an order dated May 5, 2010 the petition was disposed of relegating the petitioner to the Appellate Authority and directing restoration of electricity on payment of the specified amount. In view of the order of this Court dated May 5, 2010 the Appellate Authority made the impugned order dated July 8, 2010.

3. It is evident that the whole thing has been done contrary to law and without jurisdiction. The previous petition was filed questioning the order of provisional assessment of the Assessing Officer u/s 126 of the Electricity Act, 2003. From the order an appeal could not be filed u/s 127 under which an appeal can be filed only from a final order u/s 126.

4. It is evident that advocates for the parties did not bring the provisions of law to the notice of the Court that made the order dated May 5, 2010. In ignorance of the provisions of Section 127 the Court relegated the petitioner to the

Appellate Authority. The Appellate Authority had no statutory power to entertain the appeal. The order of the Appellate Authority is totally without jurisdiction, because the Court could not confer on him the appellate power that was not conferred by any statutory provision.

5. For these reasons, the order dated July 8, 2010 is hereby set aside. The petition is disposed of directing the Assessing Officer to make the order of final assessment, if that has not yet been made. If the order of final assessment has already been made, then a copy thereof shall be supplied to the petitioner immediately. No costs. Certified xerox.