

**(1993) 07 CAL CK 0039**  
**In the Calcutta High Court**  
**Case No : FMAT No. 696 of 1993**

Bonwarilal Dalmia

APPELLANT

Vs

Revenue Superintendent Cesc Ltd.

RESPONDENT

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**Date of Decision :** 07-07-1993

**Acts Referred:**

Electricity Act, 1910 — Section 26, 26(6)

**Citation :** (1994) 1 ILR (Cal) 573

**Hon'ble Judges :** B.P. Banerjee, J;A.K. Chakravarty, J

**Bench :** Division Bench

**Advocate :** Subrata Ghosh, for the Appellant;Soumitra Pal, for the Respondent

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## Judgement

B.P. Banerjee, J.—This is an application for stay filed in connection with an appeal filed by the Appellant writ Petitioner against the order of the learned trial Judge dated January 25, 1993. The learned trial Judge directed payment of some bills and also directed the Chief Electrical Inspector to test the meter, arbitrate and pass an order within three months. The learned trial Judge held that if the meter was defective the Petitioner shall be allowed credit.

2. The dispute that was raised in the writ application and in the" appeal before us is with regard to the correctness of the meter reading and the bills raised on such meter reading. Such question could not be adjudicated by the writ Court. Section 26 of the Electricity Act, 1910 provides the procedure for getting the meter examined by a statutory authority and the Chief Electrical Inspector is the authority who can decide and determine such a question. Whether the meter is correct or not is a matter to be decided by the technical expert who can decide that question.

3. Accordingly, we are of the view that instead of rejecting the writ application an order should have been passed directing the Chief Electrical Inspector to adjudicate the dispute. Accordingly, no useful purpose would be served in keeping the appeal pending. The appeal is treated as on day"s list and we

dispose of the appeal along with the application by directing the party concerned to refer the dispute. Accordingly, the Appellant/Petitioner is given liberty to file an application for adjudication of the dispute in accordance with the provisions of Section 26(6) of the Indian Electricity Act before the Chief Electrical Inspector, Government of West Bengal. Such an application should be made within a period of two weeks from today. If such application is made, in that event the Chief Electrical Inspector shall decide the question in accordance with law within a period of two months from the date of filing of such application before the said authority. Pending adjudication of the dispute by the Chief Electrical Inspector, the Appellant is directed to deposit 50 % of the arrears within the period of two weeks from today and the balance 50 % of the disputed bills within a period of four weeks thereafter. In default of paying any one of the instalments, the CESC would be at liberty to take steps in accordance with law including disconnection of the line.

4. This order is only confined to the bills which are the subject-matter of the writ application.

5. It is made clear that in case any relief is granted by the Chief Electrical Inspector, in that event the CESC shall adjust the same within two weeks from date. It is also made clear that the Appellant shall also deposit fees, if any, required for the purpose.

6. Undertakings given by the Appellant is hereby discharged.

7. Let a xerox copy of this order be given to the learned Advocates for the parties on the usual terms and conditions.

A.K. Chakravarty, J.: I agree.