

(2021) 07 CAL CK 0059
In the Calcutta High Court
Case No : Writ Petition No. 260/2021

Jaishree Steels Pvt. Ltd. And Anr.

APPELLANT

Vs

West Bengal State Electricity Distribution Company Ltd. And
Ors.

RESPONDENT

Date of Decision : 23-07-2021

Acts Referred:

Electricity Act, 2003 — Section 56(2)

Citation : (2021) 07 CAL CK 0059

Hon'ble Judges : Rajasekhar Mantha, J

Bench : Single Bench

Advocate : S.N. Mookherji, Jishnu Chowdhury, Ratnesh Kumar Rai, Vipra Garg,
Sujit Sankar Koley

Judgement

The writ petitioner is aggrieved by a disconnection of electricity supply for omission of payment of what the petitioner calls late payment

surcharge for the year 2015-16. At the relevant time electricity was being supplied to the petitioners by one Durgapur Projects Ltd. (DPL). The

supply operations of the said DPL have since been taken over by and merged into, the West Bengal State Electricity Distribution Company Limited

(WBSEDCL).

It is submitted by Mr. S.N. Mookherji, learned Senior counsel for the petitioner that the principal amount of dues for the said period as claimed, have

been paid. At no point of time was late payment surcharge claimed by either DPL or WBSEDCL. It is submitted that in the year 2019, for the first

time, WBSEDCL has claimed about a sum of about Rs. 10.45 crores towards the purported Late Payment Surcharge.

Reference is made to Section 56(2) of the Electricity Act, 2003, and it is

submitted that the licensee can raise a demand even beyond two years of the date when such dues occurred but cannot disconnect electricity to a consumer based on such late demand. Reliance has been placed by learned senior counsel for the petitioner on the decision of Assistant Engineer (DI), Ajmer Vidyut Vitran Nigam Ltd. & Anr. vs. Rahamatullah Khan reported in (2020)4 SCC 650 in support of his submission.

Mr. S. S. Koley, learned counsel appearing for the WBSEDCL submits that his client is surprised to note the reasons attributed by the petitioner behind the demand of the said sum of Rs. 10.45 crores. It is submitted that the demand arose out of arrears of electricity dues for the period from December, 2020 till June, 2021.

Given the divergence of facts, this Court directs the WBSEDCL to file an affidavit justifying its contention that the dues of Rs. 10.45 crores arose for the aforesaid period i.e., 2020-21. It shall also be indicated as to whether the said sum of Rs. 10.45 crores includes any amount towards any late payment surcharge and to what extent. The licensee may also produce any document or evidence to show that the demand for late payment surcharge of Rs. 9 lacs towards late payment charges, has been continuous since 2015-16 till the year 2020.

Let such affidavit be filed within a period of ten days from date; reply thereto, if any, be filed within a day thereafter. List this matter in the same position as a motion eleven days hence.