
(2018) 06 CAL CK 0057
In the Calcutta High Court
Case No : Writ Petition12337(W) of 2016

Sarat Kumar Mondal & Ors. APPELLANT
Vs
Wbsedcl & Ors. RESPONDENT

Date of Decision : 28-06-2018

Acts Referred:

Citation : (2018) 06 CAL CK 0057

Hon'ble Judges : PROTIK PRAKASH BANERJEE, J

Bench : Single Bench

Advocate : Prabir Kumar Chaudhury, S. S. Koley

Judgement

The writ petitioners have in the meanwhile made payment of deficit court fees. According to paragraph 18 of the writ petition the writ

petitioners have common cause so far as the customer care centre in Dainhat is concerned. Admittedly the meters are now defective and have not

been replaced. The parties are at issue as to why this replacement was not made. The writ petitioners submit that this was because despite complaint

the Distribution Licensee did not effect replacement.

Mr. Koley, learned advocate appearing for the Distribution Licensee on the other hand submits it was because of resistance and obstruction by the

petitioners. However, apart from a bare allegation in a supplementary affidavit, he submits on instruction that his client did not file any complaint with

the police. So far as the consumers in respect of Katwa customer centre is concerned, it is the case of the writ petitioners that no reading is being

taken but a false allegation has been made that the billing is being made on reading of the respective meters.

In both the cases the allegations relate to billing dispute. Mr. Koley strenuously

submits that in view of an effective and alternative statutory remedy being that of approaching the Grievance Redressal Forum under the provisions of the Regulation 55 of WBERC dated 17th August, 2013 the matter should be referred to such Grievance Redressal Forum which can adjudicate the disputed questions of facts.

He further submits that there have been joinder of all causes of action in respect of two Customer Care Centres of the same Distribution Licensee.

This, he says, is a ground which makes the writ petition not maintainable. I am satisfied that the second ground does not survive because in effect it is a billing dispute in the district of Burdwan and therefore the petitioners can join the causes of action with leave of Court and while during the course of hearing because of the submissions of the respondent/Distribution Licensee certain differences have been attempted to be indicated to the Court in respect of the question of maintainability and joinder of causes of action, I must consider only the writ petition and not answer to some of the allegations contained in the affidavit filed by the Distribution Licensee in terms of my order dated May 7, 2018 to determine this issue.

So far as the first objection is concerned as to a disputed question fact having arisen in the writ petition I am of the considered opinion that the writ Court only declines jurisdiction in such cases if after allowing the respondents the chance to file an affidavit in opposition and also a chance to the writ petitioner/petitioners to file a reply it is seen that there is some dispute which cannot be decided on affidavits, but witness action is to be resorted to by the concerned parties. That stage has not yet arrived. By the order dated May 7, 2018 I had only wanted disclosure of the bills to ascertain whether the bills were being raised on appropriate reading of the meter.

So I think it will be suitable to call for affidavits in the matter. The affidavit in opposition is to be filed by the respondents including the Distribution Licensee within four weeks from date. Reply thereto, if any may be filed within two weeks thereafter. In the meanwhile, the writ petitioners shall be entitled to supply of electricity by the respondent Distribution Licensee within a period of seven days from the date of communication of this order.

The Distribution Licensee shall replace the meters so far as the writ petitioners under the Dainhat Customer Care Centre are concerned and similar replacement shall also be made in cases of the writ petitioners concerned with

the Katwa Customer Care Centre.

For the present no costs shall be paid by any of the petitioners for such replacement. Once such replacement is done, the Distribution Licensee shall

raise bills strictly according to the meter reading made by its personnel month after month. Once the bills raised are served on the petitioners they shall

pay the current amount to the Distribution Licensee within the date mentioned in the bill. In the event that there is any offence by the writ petitioners

of course the respondent Distribution Licensee can take appropriate steps including disconnection.

But unless there is such a case, supply must be maintained till the disposal of the writ petition provided that the writ petitioners pay the current bills on

the basis of the readings which would be made according to the reading of the replaced meters. So far as the question of arrears is concerned, that

shall abide by the result of the writ petition. Liberty to mention for early hearing after the affidavits are complete.