

(2011) 12 CAL CK 0004
In the Calcutta High Court
Case No : Writ Petition No. 20008 (W) of 2011

S.K. Ohid Ahammed and Others

APPELLANT

Vs

The West Bengal State Electricity Distribution Company
Limited and Others

RESPONDENT

Date of Decision : 02-12-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2013) 1 WBLR 788

Hon'ble Judges : Jayanta Kumar Biswas, J

Bench : Single Bench

Advocate : Ashim Kumar Routh and Indrajit Bhattacharjee, Sankar Banerjee, for the Appellant; Somnath Banerjee for the State and Kanailal Samanta and Rajit Lal Maitra for the Private Respondent, for the Respondent

Final Decision : Dismissed

Judgement

Jayanta Kumar Biswas, J.—The petitioners in this Article 226 petition dated November 24, 2011 are seeking the following principal relief:

a) A writ or writs in the nature of Mandamus do issue commanding the directing the respondents herein their men, agents, servants and subordinates and each of them to show cause as to why the order dated 17th October, 2011 passed by the District Consumer Disputes Redressal Forum, North 24 Parganas at Barasat in C.C. Case No. 302 of 2010 being Annexure P-8 to this writ application should not be set-aside and/or canceled and/or quashed and as to why the complaint case being C.C. Case No. 302 of 2010 would not be remanded back to the District Consumer Disputes Redressal Forum, North 24 Paranas at Barasat for a fresh hearing after giving an opportunity to all the necessary parties including your petitioners.

2. The order of the District Forum dated October 17, 2011 referred to in prayer (a) is at p.71. It was passed in a case registered on the basis of a complaint filed by the private respondent (Mansur Ali Molla) on October 11, 2010 against three

officials of West Bengal State Electricity Distribution Company Limited. The District Forum allowed the case in part and directed the opposite parties therein to give Mansur supply of electricity to the premises in question.

2. The petitioners are questioning the order contending, as argued by their advocate, as follows. Without making them party the case was filed, and the District Forum passed the order affecting their interests. Since the order is patently violative of the principles of natural justice and contrary to the orders passed by this Court in previous cases and the Civil Court in pending suit, the petitioners are entitled to question the order before the Writ Court.

3. Advocate's attention was drawn to a Single Bench decision of this Court in Garh-Moyna Samabay Krishi Unnayan Samiti Ltd. and Another Vs. State of West Bengal and Others, . According to him, the decision supports his contention that alleging patent violation of the principles of natural justice and grave miscarriage of justice, the petitioners are entitled to question the order of the District Forum before the High Court under Article 226.

4. In Garh-Moyna the Article 226 petition was filed "seeking a writ of certiorari quashing (a) the Consumer Case No. 23 of 2006 that was allowed on contest by the Consumer Disputes Redressal Forum, Abasbari Tamluk, Purba Medinipur by its final order dated March 28, 2007; and (b) the Execution Case No. 14 of 2007 initiated before the Forum for execution of its order dated March 28, 2007." The question of maintainability of the petition was raised. This Court declined to entertain the petition.

5. Applying the principles stated in Garh-Moyna, I hold that though, strictly speaking, this petition is maintainable, there is no exceptional reason why it should be entertained. The questions whether the petitioners were necessary party to the case, and whether the order of the District Forum has affected their interests, could be competently decided by the State Commission that the petitioners have avoided stating as follows:

33. Your petitioners have no other alternative, efficacious and speedy legal remedy and the prayers as made herein, if granted, in the instant application, would provide complete relief to your petitioners.

6. Against the order of the District Forum the petitioners' normal statutory remedy was an appeal to the State Commission u/s 15 of the Act. They were also free to examine the question of invoking the power of the State Commission to revise the order of the District Forum in exercise of power u/s 17(1) of the Act. There is no reason to say that remedy available u/s 15 of the Act is not an efficacious and speedy remedy. The Article 226 remedy is not an alternative to the remedy u/s 15 of the Act.

7. Against an Order of the State Commission one can appeal to the National Commission u/s 19 of the Act. And against an order of the National Commission one can appeal to the Supreme Court u/s 23 of the Act. When the Act, a special

statute has charted a specific course the proceedings initiated thereunder are supposed to travel from the forum of first instance upto the Supreme Court, I am unable to see why the High Court under Article 226 should interfere in the proceedings and thus derail them. For these reasons, I dismiss the petition saying that nothing herein shall prevent the petitioners from approaching the State Commission seeking relief according to law. No costs. Certified xerox.