

(2011) 07 CAL CK 0031
Calcutta High Court
Case No: AST No. 549 of 2011

K.K. Polycolor India Ltd.

APPELLANT

Vs

The State of West Bengal and
Others

RESPONDENT

Date of Decision: July 20, 2011

Acts Referred:

- West Bengal Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2007 - Regulation 3.5

Hon'ble Judges: Jayanta Kumar Biswas, J

Bench: Single Bench

Advocate: Sanjida Sultana, for the Appellant; Rajkumar Basu, for Respondents 2nd-5th, for the Respondent

Final Decision: Dismissed

Judgement

Jayanta Kumar Biswas, J.

The Petitioner in this Article 226 petition dated July 19, 2011 is disputing the correctness of a bill dated July 1, 2011 (at p.82) raised by West Bengal Stated Electricity Distribution Company Limited, a licensee under the Electricity Act, 2003.

2. Counsel for the Petitioner submits that the Petitioner willing to go to the Grievance Redressal Officer of the licensee for resolution of the disputes, and pay according to law, needs an interim order from this Court restraining the licensee from disconnecting the supply until the dispute is raised.

3. The 2004 regulations relied on by counsel were superseded by the West Bengal Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2007.

4. Regulation 3.5 of these regulations entitled the Petitioner, disputing the bill, to lodge a complaint with the Grievance Redressal Officer of the licensee and thereafter to lodge an appeal with the Ombudsman against the order of the

Grievance Redressal Officer, if it remained aggrieved by the order of the Grievance Redressal Officer.

5. Regulation 3.5 of the regulations, applicable to the case, entitled the Petitioner to pay under protest, - (i) an amount equal to the sum claimed from it in the disputed bill, or (ii) an amount equal to the electricity charges due from it for each month calculated on the basis of average charge for electricity paid by it during the preceding six months, whichever was less, pending disposal of the dispute.

6. It is, therefore, evident that though the Petitioner was entitled to pay the amount according to its own calculation and thus prevent the licensee from taking any step for disconnection of the supply for non-payment of the disputed bill, instead of taking steps for payment in terms of reg.3.5, has chosen to approach the High Court under Article 226.

7. In view of the provisions of reg.3.5 that entitle the Petitioner to go to the Grievance Redressal Officer of the licensee with the dispute and to prevent the licensee, by paying the amount according to the regulation, from disconnecting the supply, I do not find any reason to pass an interim order restraining the licensee from disconnecting the supply until steps are taken for filing the dispute.

8. As is known an Article 226 petition cannot be entertained only for the purpose of passing an interim order to enable the Petitioner to approach the appropriate authority.

9. For these reasons, the petition is dismissed making it clear that nothing herein shall prevent the Petitioner from taking steps in terms of reg.3.5 of the above-noted regulations. No costs. Certified xerox.