

WPA 17010 of 2026

24.07.26
D/L
Sl-03
Ct.07
(Samar)

**Saraswati Garai
Vs.**

**The West Bengal State Electricity Distribution
Company Limited & Ors.**

Mr. Abhijit Chakraborty,
Mr. Ishwar Chandra Sharma,
... for the petitioner.
Dr. Mudhusudan Saha Ray,
Ms. Debangana Dey,
.... for the WBSEDCL.

1. This writ petition seeks a direction on the respondent WBSEDCL authorities to refund the payment made by the petitioner's husband to the electricity authorities upon a final order of assessment having been passed under Section 126 of the Electricity Act, 2003.
2. Proceedings under Section 126 of the 2003 Act had been initiated against the petitioner's husband for unauthorized use of electricity and in such proceedings, a final order of assessment was passed. The petitioner's husband paid up the sum that was finally assessed in such proceeding and the final order of assessment remained unscathed.
3. A criminal proceeding was also initiated against the petitioner's husband. The said criminal proceeding, ultimately ended an acquittal of the petitioner's husband.
4. The petitioner has now approached this Court

seeking a direction upon WBSEDCL authorities to refund the finally assessed sum that had been paid to the WBSEDCL authorities in terms of the final order of assessment.

5. Learned advocate appearing for the petitioner submits that the petitioner's acquittal from the criminal case clearly reveals that the petitioner had not committed any unauthorized use of electricity and as such, the petitioner is entitled to refund.
6. Dr. Saha Ray, learned advocate appearing for the respondent WBSEDCL authorities submits that any amount assessed to be paid under Section 126 of the 2003 Act is a civil liability. Prosecution in a criminal case under Section 135 of the 2003 Act, is absolutely separate from the civil liability. It is submitted that even in case, a person is acquitted of the criminal charges in a criminal case initiated under Section 135 of the 2003 Act, that would not *ipso facto* render the payments made on final order of assessment passed under Section 126 of the 2003 Act refundable.
7. It is further submitted that this writ petition cannot be maintained by the petitioner inasmuch as there was/is no privity of contract with the petitioner and the respondent WBSEDCL authorities as the petitioner's husband was the consumer.
8. Heard learned advocates appearing for the respective parties and considered the material on

record.

9. It is well settled, that civil liability and criminal liability are two separate compartments and that, acquittal in a criminal case may not, in all cases, absolve the person concerned of the civil liability that may be attributed to such person.

10. Dr. Saha Ray is also correct in his submission that the writ petition at the instance of the consumer's wife seeking refund of any sum paid by a consumer on an order under Section 126 of the 2003 Act cannot be maintained all the more so when the Final Order of Assessment under Section 126 of the 2003 Act remained untouched.

11. In such view of the matter no order can be passed on the present writ petition. However, this order will not preclude the petitioner from taking such other steps as may be available to the petitioner in law for seeking redressal of her grievance if any.

12. With the above observations, WPA 17010 of 2026 stands disposed of. There shall be no order as to costs.

13. Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Om Narayan Rai, J.)